To: Manual Recipients
From: Jessica Rowe, Director of Staffing Services
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2022

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2022. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Jessica Rowe, Director of Staffing Services
SUBJECT: Paid Leave for Civil Air Patrol Volunteers

Legislation enacted in October 2021 (Chapter 438 Laws of 2021) amends the Civil Service Law to authorize paid leave for members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary Pilots during a declared state of emergency. The Law is attached on page 2 of this memorandum.

Specifically, Section 82-c of the Civil Service Law authorizes paid leave for this purpose for all State level public employees. Employees are not required to have Attendance Rules coverage to be granted this leave with pay. Under this provision, employees are eligible for up to 20 workdays of paid leave without charge to credits per calendar year, for either full or partial days while engaged in the actual performance of United States Air Force Auxiliary Civil Air Patrol or United States Coast Guard Auxiliary Pilot duties, including reasonable travel time to and from the site.

Eligible employees are entitled to this leave, subject to the approval of the appointing authority.

Such leave is available for volunteer activities performed during states of emergency declared by local municipal or county officials or by states of emergency declared by the Governor.

Any questions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

§ 82-c. Civil air patrol volunteers; paid leave. Notwithstanding any other provisions of law to the contrary, public officers and employees of the state who are members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary Pilots shall be granted leave from work with pay to participate in emergency services during a declared state of emergency upon a written request from a unit commander and the approval of the chief administrative officer of the state agency, department or bureau for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in emergency services missions during a declared state of emergency. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any calendar year.

TO: Manual Recipients
FROM: Jessica Rowe, Director of Staffing Services
SUBJECT: Leave for COVID-19 Vaccinations

The following information supersedes Policy Bulletin 2021-01 – Leave for COVID-19 Vaccinations. Any copies of Policy Bulletin 2021-01 should be removed from your printed Attendance and Leave Manual and destroyed.

Legislation enacted in March 2021 (Chapter 77, Laws of 2021) amended the Civil Service Law to entitle all employees regardless of Attendance Rules coverage to take up to four hours of paid leave for receiving **each** COVID-19 vaccination. **It should be noted that the law does not limit the number of times an employee may receive paid leave for a COVID-19 vaccination, including a COVID-19 booster vaccination.** This provision became effective March 12, 2021. A copy of this legislation is attached.

Specifically, section 159-c of the Civil Service Law was added to entitle State officers and employees to paid leave without charge to leave credits to receive COVID-19 vaccinations.

Employees who received a vaccination during work hours prior to March 12, 2021, are required to charge leave accruals or be granted a leave without pay.

The appointing authority may require satisfactory medical documentation that the employee's absence was for the purpose of receiving the COVID-19 vaccine.

Employees are entitled to a leave of absence for COVID-19 vaccinations scheduled during the employees' regular work hours. Employees who undergo vaccinations outside their regular work schedules do so on their own time. For example, employees are not granted compensatory time off for vaccinations that occur on pass days or holidays.

Up to four hours of paid leave is allowed for each dose of the COVID-19 vaccine. Travel time (based on travel to and from the employee's worksite) is included in this four-hour cap. Absence beyond the four-hour caps must be charged to leave credits.

Please note that no time off is allowed for any other type of vaccination, including the Seasonal Flu Vaccine.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 77 of the Laws of 2021 amended the Civil Service Law effective March 12, 2021, by adding § 159-c, to read as follows:

§ 159-c. Leave time for COVID-19 vaccination. 1. Every public officer, employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, employee of any municipality, employee of any school district or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system shall be entitled to absent himself or herself and shall be deemed to have a paid leave of absence from his or her duties or service for a sufficient period of time, not to exceed four hours per vaccine injection, unless such officer or employee shall receive a greater number of hours pursuant to a collectively bargained agreement or as otherwise authorized by the employer, to be vaccinated for COVID-19.

2. The entire period of the leave of absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer or employee is otherwise entitled to.

3. Nothing in this section shall be deemed to impede, infringe, diminish or impair the rights of a public employee or employer under any law, rule, regulation or collectively negotiated agreement, or the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining agreement.

TO: Manual Recipients

FROM: Jessica Rowe, Director of Staffing Services

SUBJECT: Clarification of Policy Bulletin 2020-01 and 2020-04

Introduction

This policy bulletin provides updated information related to the implementation and interpretation of the Families First Coronavirus Response Act (FFCRA), which implicates leave under the Federal Emergency Paid Sick Leave Act (FEPSLA) and/or benefits provided by the Emergency Family and Medical Leave Act (EFMLA), all related to employees impacted by COVID-19.

The following are clarifications to the provisions of both Policy Bulletin 2020-01 (April 2020) and Policy Bulletin 2020-04 (September 2020).

Definition of Health Care Provider

Effective September 16, 2020, the U.S. Department of Labor amended and clarified its rules on the use of FEPSLA and EFMLA. Specifically, the U.S. Department of Labor amended the definition of health care provider. As of September 16, 2020, agencies should apply the definition of health care provider found at 29 C.F.R. § 826.30(c)(1) when implementing exclusions to leave under the FFCRA:

> (i) *Basic definition*. For the purposes of Employees who may be exempted from Paid Sick Leave or Expanded Family and Medical Leave by their Employer under the FFCRA, a health care provider is
>
> (A) Any Employee who is a health care provider under 29 CFR 825.102 and 825.125, or;
>
> (B) Any other Employee who is capable of providing health care services, meaning he or she is employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care and, if not provided, would adversely impact patient care.
>
> (ii) *Types of Employees*. Employees described in paragraph (c)(1)(i)(B) include only:
>
> (A) Nurses, nurse assistants, medical technicians, and any other persons who directly provide services described in (c)(1)(i)(B);

(B) Employees providing services described in (c)(1)(i)(B) of this section under the supervision, order, or direction of, or providing direct assistance to, a person described in paragraphs (c)(1)(i)(A) or (c)(1)(ii)(A); and

(C) Employees who are otherwise integrated into and necessary to the provision of health care services, such as laboratory technicians who process test results necessary to diagnoses and treatment.

(iii) Employees who do not provide health care services as described above are not health care providers even if their services could affect the provision of health care services, such as IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers.

(iv) *Typical work locations*. Employees described in paragraph (c)(1)(i) of this section may include Employees who work at, for example, a doctor's office, hospital, health care center, clinic, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar permanent or temporary institution, facility, location, or site where medical services are provided. This list is illustrative. An Employee does not need to work at one of these facilities to be a health care provider and working at one of these facilities does not necessarily mean an Employee is a health care provider.

(v) *Further clarifications*.

(A) Diagnostic services include taking or processing samples, performing or assisting in the performance of x-rays or other diagnostic tests or procedures, and interpreting test or procedure results.

(B) Preventive services include screenings, check-ups, and counseling to prevent illnesses, disease, or other health problems.

(C) Treatment services include performing surgery or other invasive or physical interventions, prescribing medication, providing or administering prescribed medication, physical therapy, and providing or assisting in breathing treatments.

(D) Services that are integrated with and necessary to diagnostic, preventive, or treatment services and, if not provided, would adversely impact patient care, include bathing, dressing, hand feeding, taking vital signs, setting up medical equipment for procedures, and transporting patients and samples.

(vi) The definition of *health care provider* contained in this section applies only for the purpose of determining whether an Employer may elect to exclude an Employee from taking leave under the EPSLA and/or the EFMLEA, and does not otherwise apply for purposes of the FMLA or section 5102(a)(2) of the EPSLA.

Questions concerning the guidance set forth in this Policy Bulletin should be directed to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

TO: Manual Recipients
FROM: Jessica Rowe, Director Staffing Services Division
SUBJECT: Clarification of Policy Bulletin 2020-01, entitled *Guidance Related to Recent State and Federal Law and Policy Changes Due to COVID-19*

Introduction

This policy bulletin provides updated information related to the implementation and interpretation of the Families First Coronavirus Response Act (FFCRA), which implicates leave under the Federal Emergency Paid Sick Leave Act (FEPSLA) and/or benefits provided by the Emergency Family and Medical Leave Act (EFMLA), all related to employees impacted by COVID-19.

The following are clarifications to the provisions of Policy Bulletin 2020-01 (April 2020).

Intermittent Use of FEPSLA and EFMLA

As of August 3, 2020, employees may intermittently use FEPSLA or EFMLA to care for the employee's son or daughter whose school or place of care is closed, or the child care provider is unavailable, because of reasons related to COVID-19, which is detailed as FEPSLA Category 5 in Policy Bulletin 2020-01 (April 2020).

Employees may not use FEPSLA leave intermittently for any of the remaining reasons that are classified as FEPSLA Categories 1 through 4 and Category 6 in Policy Bulletin 2020-01 (April 2020). For these FEPSLA Categories, an employee must take leave consecutively until the need for such leave ends. The employee retains and may use any remaining FEPSLA leave time if and when another FEPSLA reason arises before its expiration on December 31, 2020. Intermittent leave may be used in increments of ¼ of an hour.

Exclusions

As set forth in Policy Bulletin 2020-01 (April 2020), FFCRA allows employers to exempt health care providers and emergency responders from FEPSLA and EFLMA. As of August 3, 2020, the definition for health care provider is found in the Family and Medical Leave Act (FMLA). The emergency responder definition is found in the U.S. DOL regulations implementing the FFCRA. Both definitions are provided below.

Agencies should continue to comply with FFCRA by applying and implementing, where applicable, the definitions of these exemptions to their workforce, and to take the necessary steps to ensure that the law is followed based on these definitions. Agencies need not consult or get prior approval before excluding employees under either of these exemptions, as was required by Policy Bulletin 2020-01 (April 2020).

Definitions

As of August 3, 2020, for the purposes of employees who may be excluded from FEPSLA or EFMLA leave under the FFCRA, the following definitions are to be applied.

The term "health care provider," as found at 29 C.F.R. § 825.102, means:

- A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; or
- Nurse practitioners, nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; or
- Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; or
- A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

  The phrase "authorized to practice in the State," as used in this definition, means that the provider must be authorized by the State of New York to diagnose and treat physical or mental health conditions.

The term "emergency responder," as found at 29 C.F.R. § 826.30(c)(2), means anyone necessary for the provision of transport, care, healthcare, comfort, and nutrition of such patients, or others needed for the response to COVID-19. This includes, but is not limited to, military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any

individual whom the highest official of the State determines is an emergency responder necessary for the State's response to COVID-19.

Questions concerning the guidance set forth in this policy bulletin should be directed to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

TO: New York State Agencies and Departments
FROM: Jessica Rowe, Director of Staffing Services
SUBJECT: Guidance Related to Recent State and Federal Law and Policy Changes Due to COVID-19

Introduction

This policy bulletin provides information and implementation guidance on the recently enacted State Paid Sick Leave Law (Chapter 25 of the Laws of 2020) and recent policy guidance issued by the Governor's Office of Employee Relations (GOER) to Directors of Human Resource Management on March 11, 2020. It also describes New York State's implementation of the Families First Coronavirus Response Act (FFCRA), which provides for the Federal Emergency Paid Sick Leave Act (FEPSLA) and the expansion of benefits under the Emergency Family and Medical Leave Act (EFMLA) related to employees impacted by COVID-19. The attached chart displays how these laws and policies apply to specific circumstances. Also attached is an employee notice that describes these benefits.

The information contained in this document summarizes our current understanding of the significant revisions to the EFMLA and FEPSLA. **Further guidance will be provided as it becomes available.**

Questions concerning this material should be directed to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS POLICY GUIDANCE

On March 11, 2020, the Governor's Office of Employee Relations (GOER) issued policy guidance for employees quarantined due to the novel coronavirus (COVID-19). This policy relates to employees who are placed on mandatory or precautionary quarantine related to COVID-19.

Eligibility

All State employees, regardless of Attendance Rules coverage, are eligible for quarantine leave.

Use of Leave

This policy provides employees leave with pay without charge to accruals, for all workdays within the 14-day period of the quarantine. This leave will be provided regardless of whether employee is symptomatic. If an employee placed on precautionary quarantine can work from home, arrangements should be made to do so. If not, the employee will be placed on leave with pay, without charge to accruals, for all workdays within the 14-day period of quarantine.

CHAPTER 25 OF THE LAWS OF 2020

On March 18, 2020, Chapter 25 of the Laws of 2020 was enacted to provide for a 2-week period of sick leave with pay, without charge to accruals. The law also authorized Paid Family Leave (PFL) benefits for employees with minor children that are subject to mandatory quarantine or precautionary quarantine.

The Paid Family Leave provision is optional for public sector employers; New York State has opted not to implement this provision.

Chapter 25 of the Laws of 2020 also included an exclusion for employees who had traveled to a country in which the Centers for Disease Control and Prevention (CDC) has issued a level two or three travel health notice; such employees are not entitled to such leave, unless the travel was directed by their employer.

Use of Leave

The policy issued by GOER on March 11, 2020, for employees under Precautionary or Mandatory Quarantine, generally exceeds the quarantine benefits provided by Chapter 25 of the NYS Laws. Therefore, quarantine benefits should be provided to employees under the statewide GOER Policy.

FEDERAL EMERGENCY PAID SICK LEAVE ACT

The Federal Emergency Paid Sick Leave Act (FEPSLA or The Act) provides paid sick leave to individuals who are subject to quarantine or isolation, advised by a health care provider to precautionary-quarantine, or experiencing symptoms of COVID-19 and seeking a medical diagnosis. The Act also provides paid sick leave for employees who are taking care of individuals in certain categories or are caring for a minor child whose school or place of care has been closed, or the childcare provider is unavailable, due to COVID-19 precautions.

The new law took effect on April 1, 2020 and will remain in effect until December 31, 2020. The following describes the State's implementation of this new law.

Basic Requirements

The Act provides that each employer (as defined in the Act), including the State of New York, provide an employee with paid sick leave to the extent that the employee is unable to work due to a qualifying event. FEPSLA leave is considered a leave at full pay, without charge to accruals, for all attendance and leave purposes. Leave under this Act shall be called FEPSLA leave; agencies should add this leave category to their automated or paper timekeeping systems.

Eligibility

All employees, regardless of Attendance Rules coverage, are eligible for FEPSLA leave. There are no minimum service requirements for the FEPSLA benefits. In lieu of these paid benefits, employees may elect to use any available leave accruals.

Categories of Leave

Employees who are unable to work or telework are entitled to FEPSLA for any of the following qualifying events:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID–19.
2. The employee has been advised by a health care provider to self-quarantine (termed precautionary quarantine in New York) due to concerns related to COVID–19.
3. The employee is experiencing symptoms of COVID–19 and is seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in (1) or (2) above.
5. The employee is caring for a minor child of such employee, if the school or place of care of the minor child has been closed, or the childcare provider of such minor child is unavailable, due to COVID–19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Pay Status/Calculation

An employee's pay on FEPSLA leave is calculated based on their regular rate of pay, subject to specific monetary caps imposed by the FEPSLA.

An employee's pay is calculated as follows:

An employee shall be paid at the employee's regular rate of compensation, subject to a cap of $511 per day for a maximum of $511 per day and $5,110 in the aggregate, for those employees who work a 40-hour work week who take leave in the following categories:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID–19;
2. The employee has been advised by a health care provider to self- (precautionary) quarantine due to concerns related to COVID–19; or
3. The employee is experiencing symptoms of COVID–19 and is seeking a medical diagnosis.

An employee shall be paid at two-thirds of the employee's regular rate of pay, subject to a cap of $200 per day and $2,000 in the aggregate, for those employees who work a 40-hour work week and who take leave in the following categories:

1. The employee is caring for an individual who is subject to an order as described in subparagraph (1) above or who has been advised as described in subparagraph (2) above.
2. The employee is caring for a minor child of such employee if the school or place of care of the minor child has been closed, or the childcare provider of such minor child is unavailable, due to COVID–19 precautions.

An agency must use the following procedure to calculate the number of hours worked for part-time employees who work varied schedules from week-to-week:

1. Subject to (2) below, a number equal to the average number of hours that the employee was scheduled, per day, over the 6-month period, ending on the date on which the employee takes the FEPSLA leave, including hours for which the employee took leave of any type.
2. If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours, per day, that the employee would normally be scheduled to work.

It should be noted that FEPSLA requires that paid sick leave be paid only up to 80 hours over a 2-week period. For example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under the FEPSLA is capped at 80 hours.

Use of Leave

FEPSLA leave shall be available for immediate use by an employee, for the purposes described above, regardless of how long the employee has been employed by the State. An employee may first use FEPSLA leave for the purposes described above. An agency may not require an employee to use other paid leave provided by the State before the employee uses FEPSLA leave.

Leave shall be used in full day increments, except for the first day.

Amount of Leave

A full-time employee who works a 40-hour work week shall be entitled to 80 hours of FEPSLA leave. Less than full-time employees shall be entitled to a number of hours equal to the number of hours that such employee works, on average, over a 2-week period.

In the case of a less than full-time employee whose schedule varies from week-to-week to such an extent that you are unable to determine with certainty the number of hours the employee would have worked if such employee had not taken paid sick time, the following procedure shall be used to calculate the number of hours worked:

1. Subject to (2) or (3) below, a number equal to the average number of hours that the employee was scheduled, per day, over the 6-month period, ending on the date on which the employee takes the paid sick time, including hours for which the employee took leave of any type.
2. If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours, per day, that the employee would normally be scheduled to work. OR
3. If the employee did not work over a full 6-month period, average the hours worked over the period the employee did work.

Employees who work 37.5 hours per week will be entitled to 75 hours of leave in a 2-week period.

FEPSLA leave does not carry over and expires on December 31, 2020.

FEPSLA leave provided to an employee ends at the beginning of the employee's next scheduled work shift immediately following the termination of the need for paid sick time.

An agency may not require, as a condition of providing FEPSLA leave, that the employee search for or find a replacement to cover the employee's scheduled work times.

Notification

An employee must provide as much notice, as practicable under the circumstances, of the need for leave.

After the first workday (or portion thereof) an employee receives paid sick time under this Act, an agency may require the employee to check in each day.

An employee must provide an agency with notice of a change in status, as soon as practicable, after finding out about that change in status.

Documentation

An agency can require proof consistent with the categories of FEPSLA leave listed above.

Posting and Notice Requirements

Each agency shall post and keep posted, in conspicuous places where notices to employees are customarily posted, a notice, prepared or approved by the Secretary of Labor, of the requirements described in this Act. That notice is available here.

Unlawful Discrimination/Other Rights

It is unlawful for any agency to discharge, discipline, or in any other manner discriminate against any employee who takes FEPSLA leave and who has filed any complaint or instituted or caused to be instituted any proceeding under or related to FEPSLA leave (including a proceeding that seeks enforcement of the Act), or who has testified or is about to testify in any such proceeding.

FEPSLA leave shall not diminish the rights or benefits that an employee is entitled to under any other federal, state, or local law, collective bargaining agreement, or existing policy. There is no entitlement to be paid for any unused FEPSLA leave upon an employee's termination, resignation, retirement, or other separation from employment.

Definitions

1. Employer – the State of New York is a public agency covered by the provisions of this law.
2. Employee – employees of the State of New York.
3. The term "health care provider" has the meaning given such term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

4. Health care provider and emergency responder – United States Department of Labor (USDOL) guidance on employees who may be included in the exclusion can be found at: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions.

EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT

The federal Family and Medical Leave Act (FMLA) was revised to expand benefits for employees impacted by COVID-19. These new Emergency FMLA (EFMLA) benefits are in effect April 1, 2020. The changes are a temporary expansion of benefits and will expire on December 31, 2020. The revisions modify current FMLA eligibility provisions and provide a new category of approved leave: public health emergency leave related to the COVID-19 pandemic. This leave is available to eligible employees who must take leave to care for their minor children because the school or place of care for their children has been closed due to the COVID-19 public health emergency. The law also provides paid leave requirements for employers.

This memorandum provides a brief overview of the revisions to the FMLA. Agencies are cautioned that provisions of the FMLA must be applied in the context of State leave policy, consistent with the Attendance Rules and negotiated agreements.

The information contained in this document summarizes our current understanding of the revisions to the FMLA related to COVID-19. Further guidance may be provided as issues are clarified.

Eligibility

The FMLA eligibility criteria for employees impacted by the COVID-19 public health emergency has been substantially expanded. Employees absent due to the COVID-19 are only required to have worked for New York State for a period of 30 calendar days. The requirement of one cumulative year of State service and 1,250 hours prior to the qualifying event **does not** apply to absences for the public health emergency leave related to COVID-19.

All employees meeting the 30-day requirement are entitled to the EFMLA benefits described below, regardless of their eligibility for Attendance Rules coverage (i.e., hourly and per diem employees). It should be noted that the normal FMLA eligibility criteria still applies to all other conditions for which an employee seeks FMLA.

Amount of Leave to be Granted

Eligible employees are entitled to 12 work weeks of public health emergency leave from April 1, 2020 through December 31, 2020. Any FMLA an employee used prior to April 1, 2020, for reasons other than those related to COVID-19, is subtracted from this additional 12 weeks of EFMLA Leave. This new period of FMLA does not provide an additional 12 weeks of leave entitlement, but rather provides a new qualifying reason for which leave can be taken. Employees are still limited to a total of 12 week of FMLA for 2020.

Eligible employees are now allowed to take leave due to a qualifying need related to the COVID-19 public health emergency. The EFMLA defines a public health emergency as a COVID-19 emergency declared by a federal, state, or local authority.

The only qualifying need is that the employee is unable to work or telework because the employee is needed to care for the employee's minor child under age 18 due to an elementary or secondary school or place of care closure, or due to the unavailability of a child care provider, because of a COVID-19 public health emergency. Employees who have a child, age 18 or older, who is incapable of self-care because of a mental or physical disability shall be eligible for public health emergency leave.

Pay During Leave

The first 10 days of COVID-19 public health emergency leave may be unpaid, although employees have the option to substitute any type of available paid leave (i.e., FEPSLA, vacation, personal leave, or sick leave). The Federal Emergency Sick Leave may run concurrently with this 10-day period.

After the first 10 days, the employee is entitled to be paid for the leave. Under normal circumstances, the leave is paid at two-thirds of the employee's regular rate of pay multiplied by the number of hours the employee would normally be scheduled to work. The amount of paid leave is capped at $200 a day, but may not exceed a total of $10,000. For employees who work variable hours, the employer should calculate the average number of hours the employee was scheduled to work for the six-month period prior to the date the leave begins, including hours for which the employee took leave of any type (e.g., vacation, sick leave, etc.). If the employee works variable hours, but has not worked for the employer for 6 months, the employer must use the average number of hours the employee reasonably would have been expected to work at the time of hire.

COVID-19 public health emergency leave shall be used in full day increments only.

Intersection of FEPSLA and EFMLA

Employees taking paid sick leave because they are unable to work or telework due to a need for leave because they (1) are subject to a federal, state, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self (precautionary)-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, will receive for each applicable hour the greater of:

- Their regular rate of pay;
- The federal minimum wage in effect under the FLSA; or
- The applicable State or local minimum wage.

In these circumstances, an employee is entitled to a maximum of $511 per day, or $5,110 total over the entire 2-week paid sick leave period.

An employee is entitled to compensation at two-thirds of the greater of the amounts above if the employee is taking paid sick leave because they are: (1) caring for an individual who is subject to a federal, state, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self (precautionary)-quarantine due to concerns related to COVID-19; (2) caring for their child whose school or place of care is closed, or because their childcare provider is unavailable, due to COVID-19 related reasons; or (3) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services.

Under these circumstances, the employee is subject to a maximum of $200 per day, or $2,000 over the entire 2-week period.

If the employee is taking EFMLA, they may take paid sick leave for the first 10 days of that leave period, or they may substitute any accrued vacation leave, personal leave, or sick leave available under State policy. For the following 10 weeks, they will be paid for their leave at an amount no less than two-thirds of their regular rate of pay for the hours they would be normally scheduled to work. The regular rate of pay used to calculate this amount must be at or above the federal minimum wage, or the applicable state or local minimum wage. However, the employee will not receive more than $200 per day or $12,000 for the 12 weeks that include both paid sick leave and EFMLA when the employee is on leave to care for their child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

It should be noted that employees cannot use existing leave entitlements (e.g., sick leave, vacation, or personal leave) to supplement their pay while using FEPSLA or EFMLA COVID-19 public health emergency leave.

Documentation

An employee must submit appropriate documentation to support the use of public health emergency leave to the extent practicable.

Return to Work

An employee must be restored to the same or a substantially equivalent position.

Notice Requirements

An employee who needs COVID-19 public health emergency leave is required to provide the employer with as much notice as is practicable.

Exclusions

The FEPSLA and EFMLA provisions allow employers to exclude healthcare providers or emergency responders from the provisions of the Act. **State agencies interested in exercising this option must consult with GOER and receive prior approval from their Deputy Secretary.** Healthcare providers or emergency responders responding to the COVID-19 public health emergency should continue to report

to their agencies. United States Department of Labor (USDOL) guidance on employees who may be included in the exclusion can be found at: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions.

New York State Department of Civil Service
Attendance and Leave Manual Policy Bulletin 2020-01
Policy and Law Related to COVID-19 Employee Leave
April 4, 2020

Employee Status	Chapter 25 of the NYS Laws of 2020	GOER March 11, 2020 Policy on COVID-19	Emergency Paid Sick Leave Act	Emergency FMLA Expansion Act
Employee subject to state, federal, or local quarantine	Augmented by the Governor's Office of Employee Relations' (GOER) March 11 Policy	X	X	N/A
Employee advised by health care provider to self (precautionary) quarantine	Augmented by GOER's March 11 Policy	X	X	N/A
Employee is symptomatic	Augmented by GOER's March 11 Policy	X	X	N/A
Employee caring for someone who is quarantined or advised by health care provider to self (precautionary)-quarantine	N/A	N/A	X	N/A
Employee is caring for child of such employee if the school or place of care of the child has been closed	New York State opted out of the Paid Family Leave benefit related to COVID-19	N/A	X	X

It is important to remember, when reviewing the information provided in this Policy Bulletin, that employees under the Emergency FMLA Expansion Act may choose any leave option available at their discretion (i.e., the Federal Emergency Paid Sick Leave Act, vacation, personal leave, or sick leave). This includes the initial two-week period of unpaid leave, available under the FMLA Expansion Act.

The policy issued by GOER on March 11, 2020, for employees under Precautionary or Mandatory Quarantine, generally exceeds the benefits provided by Chapter 25 of the NYS Laws of 2020. Benefits should be provided to employees under the statewide GOER Policy.

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

ANDREW M. CUOMO
Governor
LOLA W. BRABHAM
Acting Commissioner

EMPLOYEE NOTICE
Emergency Paid Sick Leave and Emergency Expanded Family and Medical Leave
April 4, 2020

Emergency Paid Sick Leave

As a result of recently enacted federal law, beginning April 1, 2020, every New York State employee, regardless of Attendance Rules coverage and bargaining unit, will be eligible for up to two weeks of paid sick leave if unable to work or work from home because the employee:

1. Is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine because of COVID-19;
3. Is experiencing COVID-19 related symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to either an order, as described above in (1), or self-quarantine, as described above in (2);
5. Is caring for the employee's child whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19; or
6. Is experiencing any other condition specified by the federal government; however, the federal government has not yet identified anything in this category.

Leave for numbers 1, 2, and 3 above will be paid at 100% of an employee's regular rate of pay, up to $511.00 daily, capped at $5,110.00 for the two-week period.

Leave for numbers 4, 5, and 6 above will be paid at two-thirds of the employee's regular rate of pay, up to $200.00 daily, capped at $2,000.00 for each two-week period.

Emergency Expanded Family and Medical Leave

In addition to the leave described above, New York State employees who have been employed for at least 30 days prior to their request for leave may be eligible for up to an additional 10 weeks of paid leave for number 5 above (i.e. caring for a child whose school or place of care is closed or whose child care provider is unavailable due to COVID-19), paid at two-thirds of the employee's regular rate of pay up to $200.00 daily, capped at $10,000.00 for the additional 10 week period.

You cannot be discharged, disciplined, or otherwise discriminated against for taking this leave, filing a complaint, or challenging a denial of leave in any proceeding.

Contact your Human Resources Department with any questions about how these leave benefits work with other Attendance and Leave benefits.

TO: Manual Recipients
FROM: Jessica Rowe, Director of Staffing Services
SUBJECT: Time Off to Vote

The following information supersedes Policy Bulletin 2019-02-a – Time Off to Vote. Any copies of Policy Bulletin 2019-02-a should be removed from your printed Attendance and Leave Manual and destroyed.

Legislation enacted in April 2020 (Chapter 55, Laws of 2020) amended the Election Law to allow employees to take up to **two** hours of paid leave to vote in any election in New York State when the employee does not have sufficient time to vote before or after their work shift.

Specifically, Section 3-110 of the Election Law was amended to allow all employees who are registered voters, and who do not have sufficient time to vote **outside of their working hours**, to take off an amount of time, which when added to the voting time available outside working hours, will enable to them to vote. Additional time off for employees who are covered by the Attendance Rules should be charged to vacation, overtime compensatory time credits or personal leave, as approved by the agency.

Four consecutive hours **either** between the opening of the polls and the beginning of the employee's work shift, or between the end of their work shift and the closing of the polls, is considered sufficient time to vote.

Time off to vote must be taken at the beginning or end of the work shift, as directed by the agency, unless the agency and the employee mutually agree on another time.

Time off to vote applies to general elections, special elections called by the Governor, primary elections, town and village elections, but not to school or library elections.

If an employee requires time off to vote, they must notify the agency not more than ten nor fewer than two working days before the day of the election.

Agencies must post notice of Time off to Vote at least ten workdays before any election. The notice must be conspicuously posted where it can be seen, as employees enter or exit their place of work. Agencies should also post the notice on their intranet or distribute it to employees via email.

Agencies should update their timekeeping system so that employees are afforded up to **two** hours of leave, when necessary.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 55 of the Laws of 2020 amended the Election Law effective April 1, 2020 to read as follows:

§ 3-110. Time allowed employees to vote.
1. If a registered voter does not have sufficient time outside of his or her scheduled working hours, within which to vote on any day at which he or she may vote, at any election, he or she may, without loss of pay for up to two hours, take off so much working time as will, when added to his or her voting time outside his or her working hours, enable him or her to vote.

2. If an employee has four consecutive hours either between the opening of the polls and the beginning of his or her working shift, or between the end of his or her working shift and the closing of the polls, he or she shall be deemed to have sufficient time outside his or her working hours within which to vote. If he or she has less than four consecutive hours he or she may take off so much working time as will, when added to his or her voting time outside his or her working hours enable him or her to vote, but not more than two hours of which shall be without loss of pay, provided that he or she shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.

3. If the employee requires working time off to vote the employee shall notify his or her employer not more than ten nor less than two working days before the day of the election that he or she requires time off to vote in accordance with the provisions of this section.

4. Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.

ATTENTION ALL EMPLOYEES

TIME ALLOWED EMPLOYEES TO VOTE ON ELECTION DAY

N.Y. ELECTION LAW SECTION 3-110[i] STATES THAT:

- IF YOU DO NOT HAVE 4 CONSECUTIVE HOURS TO VOTE, EITHER FROM THE OPENING OF THE POLLS TO THE BEGINNING OF YOUR WORKING SHIFT, OR BETWEEN THE END OF YOUR WORKING SHIFT AND THE CLOSING OF THE POLLS, YOU MAY TAKE OFF UP TO 2 HOURS, WITHOUT LOSS OF PAY, TO ALLOW YOU TIME TO VOTE IF YOU ARE A REGISTERED VOTER.

- YOU MAY TAKE TIME OFF AT THE BEGINNING OR END OF YOUR WORKING SHIFT, AS YOUR EMPLOYER MAY DESIGNATE, UNLESS OTHERWISE MUTUALLY AGREED.

- YOU MUST NOTIFY YOUR EMPLOYER NOT LESS THAN 2 DAYS, BUT NOT MORE THAN 10 DAYS, BEFORE THE DAY OF THE ELECTION THAT YOU WILL TAKE TIME OFF TO VOTE.

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[i] Employers: Not less than ten working days before any Election Day, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this law. Such notice shall be kept posted until the close of the polls on Election Day.

To: Manual Recipients
From: Jessica Rowe, Director of Staffing Services
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2020

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2020. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Jessica Rowe, Acting Director Staffing Services Division
SUBJECT: Implementation of Paid Family Leave Benefits for Rent Regulation Services Unit Employees

Introduction

Legislation enacted in April 2016 (Chapter 54, Laws of 2016) amended Workers' Compensation Law Article 9 to provide for a Paid Family Leave (PFL) benefit for eligible employees working in New York State. PFL is intended to balance the demands of the workplace with the needs of families by providing workers with reasonable amounts of paid time off. It encourages stability in the family and productivity in the workplace.

PFL affords eligible employees the right to take paid leave, ***without charge to leave credits***, to participate in providing care, including physical or psychological care, for a serious health condition ***of a family member of the employee;*** to bond with the employee's biological, adopted, or foster child during the first twelve months after the child's birth or placement in the home; or to attend to obligations arising because the spouse, domestic partner, child, or parent of the employee is on active duty or has been notified of an impending call to active duty in the United States armed forces (a qualifying exigency).

It should be noted that PFL is *not* available for an employee's *own* serious health condition or military activation. PFL is a separate and distinct benefit separate from any other leave available under the Attendance Rules. Payments for PFL will be financed by deductions withheld from an employee's biweekly wages and PFL benefits will be paid by an insurance carrier, MetLife.

The PFL benefit will be available beginning July 10, 2019 for Rent Regulation Services Unit (RRSU) employees represented by District Council 37, in bargaining unit 67.

PFL Monetary Benefit

The requirement to provide PFL, the amount of PFL authorized, and the amount of pay that an employee may receive, will be phased in as follows:

1. On or after July 10, 2019, an employee may receive up to ten weeks of PFL benefits for the remainder of 2019 at 55% of the employee's average weekly wage, not to exceed 55% of the New York State Average Weekly Wage (SAWW).
2. On or after January 1, 2020, an employee may receive up to ten weeks of PFL benefits in any 52-week period at 60% of the employee's average weekly wage, not to exceed 60% of the SAWW.

3. On or after January 1, 2021, and for each year thereafter, an employee may receive up to twelve weeks in any 52-week period at 67% of the employee's average weekly wage, not to exceed 67% of the SAWW.

Eligibility

RRSU employees, including hourly and per diem employees without Attendance Rules coverage, may be eligible for PFL. For purposes of PFL eligibility, New York State is considered one employer. An employee's eligibility for PFL will be determined by the Department of Civil Service and will be available for review and certification by agency Human Resource staff using the New York Benefits Eligibility and Accounting System (NYBEAS).

RRSU employees working 20 hours or more per week become eligible for PFL upon completion of twenty-six consecutive weeks of State service. RRSU employees who work less than 20 hours per week become eligible for PFL upon completion of one hundred seventy-five days of State service. Unlike the Family and Medical Leave Act (FMLA), there is no requirement of completion of a minimum number of hours worked before an employee becomes eligible for PFL.

A full-time employee who meets the twenty-six consecutive weeks of employment eligibility criteria, and has an agreed upon unpaid leave of absence or vacation, is entitled to PFL immediately upon return to pay status. The employee does not need to work an additional twenty-six consecutive weeks to be eligible for PFL again. Similarly, a part-time employee who meets the one hundred seventy-five days of regular employment eligibility criteria, and has an agreed upon unpaid leave of absence or vacation, is entitled to PFL immediately upon return to pay status. The employee does not need to work an additional one hundred seventy-five days to be eligible for PFL again.

To further clarify, the employee's use of any scheduled vacation time, personal leave, sick leave, other leaves at full pay, or other periods where the employee is away from work but is still considered to be an employee shall be counted toward the twenty-six consecutive work weeks for full-time employees or toward the one hundred seventy-five day requirement for part-time employees, so long as the biweekly premium payment the employee makes to the cost of PFL benefits have been paid for such periods of time.

For purposes of determining eligibility for PFL, separations of less than one year will not constitute a break in service. Once an employee has had a separation of more than one year they will once again have to meet the minimum eligibility requirements for PFL.

Amount of Paid Family Leave to be Granted

An RRSU employee is entitled to receive PFL benefits for up to ten, or twelve weeks (depending on the phase/year) during any 52-week period beginning with the first full day of absence related to the qualifying event. There is no waiting period. PFL may be taken periodically or in a block of time. Please note that this 52-week period is not the same as a calendar year method for determining the amount of FMLA available to an eligible employee.

An employee's entitlement for PFL for bonding with a child after birth or adoption and/or foster care expires at the end of the consecutive 52-week period beginning on the date of the birth, or at the end of the consecutive 52-week period beginning on the date of the child's placement. An employee may use PFL for periodic bonding leave, **but may not charge accruals and receive PFL on the same day.**

It should be noted that an employee may opt to receive Income Protection Plan (IPP) benefits ***or*** PFL benefits during the post-partum period during which the employee is disabled, but may not receive both benefits simultaneously.

PFL Definitions

Workers' Compensation Law section 201 provides the following definitions:

1. *Child* – a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis.
2. *Domestic Partner* – has the same meaning as set forth in Section 4 of the Workers' Compensation Law.
3. *Serious Health Condition* – an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, continuing treatment or continuing supervision by a health care provider. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective where the family member is under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
4. *Parent* – a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.
5. *Family Member* – a child, parent, grandparent, grandchild, spouse, or domestic partner as defined in this section.
6. *Grandchild* – a child of the employee's child.
7. *Health Care Provider* – a physician, physician's assistant, chiropractor, dentist or dental hygienist, physical therapist or physical therapy assistant, nurse, midwife, podiatrist, optometrist, psychologist, social worker, occupational therapist, speech-language

pathologist, mental health practitioner, or any person licensed under the NYS Public Health Law.

8. *Grandparent* – a parent of the employee's parent.
9. *Providing Care* – Physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters, and personal attendant services.

Election of PFL Benefits

The ten, or twelve weeks (depending on the phase/year) of PFL may be taken on a continuous or on a periodic basis. When PFL is taken on a periodic basis, it must be used in **single** day increments. Partial day increments are **not** permitted.

In the event an employee wishes to take time off to care for a qualifying family member, an employee **may** elect to receive full pay by using accrued and unused vacation, personal leave, holiday leave, and/or family sick leave available in accordance with the Attendance Rules and the FMLA, or to **not** charge available accrued leave credits and receive the statutory PFL benefit in accordance with the monetary PFL benefits noted above. ***Time charged to leave accruals will not count against an employee's annual PFL entitlement.***

An employee should provide at least 30 days' advance notice if the reason for PFL is foreseeable. Foreseeable qualifying events include: an expected birth; placement for adoption or foster care; planned medical treatment for a serious health condition of a family member; the planned medical treatment for a serious injury or illness of a covered service member; or other known military exigency. If 30 days' notice is not practicable then notice must be given as soon as reasonably possible. An employee must advise the employer as soon as possible when dates of a scheduled leave change, are extended, or were initially unknown.

Interplay of the Attendance Rules, FMLA, and PFL

Like the FMLA, PFL provides for the following:

- Prohibition of retaliation against an employee for requesting or for receiving PFL benefits.
- Restoration to the same position or a similar position the employee previously held prior to taking PFL.
- Mandates employers to maintain an employee's health insurance benefits during the period of PFL, provided the employee pays their share of the premium during the leave.

Statutory PFL benefits must be used concurrently with any entitlements an employee may be eligible for under the FMLA. Unlike the FMLA, PFL benefits are available in **full** day increments only. When an employee exercises the option to use FMLA in less than full day

increments, the employee is not eligible for PFL. Additionally, unpaid leave taken under the FMLA counts against PFL if an employee wishes to use their PFL entitlement. If an employee wishes to charge accruals under the FMLA, they are not entitled to use their PFL and the time charged to leave credits **does not** count against their PFL entitlement.

Examples *(assume examples below relate to a full time annual salaried employee who meets the eligibility criteria for both FMLA and PFL benefits)**:***

Example 1:
In February 2019, an employee tells their agency they need to take eight weeks off to care for their 12-year-old child who had orthopedic surgery and requires 24/7 care. The employee has low accrual balances and wishes to use PFL. The employee is not required to exhaust their leave accruals and may submit a claim for PFL immediately. The eight-week absence counts toward both their PFL entitlement and their 2019 calendar year FMLA entitlement.

Example 2:
An employee adopts a child in June 2019 and elects to use twelve weeks of unpaid FMLA. In January 2020, the employee requests an additional twelve weeks of leave to bond with the adopted child and is approved for an additional twelve weeks of FMLA. The employee may take this time as unpaid FMLA, FMLA charged to accruals, or may elect to submit a claim for up to ten weeks of PFL.

Example 3:
An employee who has exhausted all their sick leave credits tells their agency they require four months (sixteen weeks) off to care for their newborn child. The employee first uses IPP Short Term Disability (STD) benefits during the presumed period of disability following childbirth (generally six weeks under normal circumstances). The employee then opts to take six weeks of unpaid leave under FMLA exhausting their 12-week calendar year FMLA entitlement. Following exhaustion of their FMLA entitlement, the employee may opt to charge vacation and personal leave credits (under the State's longstanding child care leave policy) **or** may request to use PFL benefits by submitting a PFL claim to MetLife.

Example 4:
In July 2019, an employee requests time off to care for their domestic partner who has been diagnosed with a serious health condition. The employee requests every Tuesday, Thursday, and Friday off to accompany their partner to treatment. Since domestic partners are not covered under the FMLA, the employee is entitled to either charge appropriate leave accruals under the Attendance Rules or may elect to use PFL benefits. The employee has the choice of either option (charging appropriate accruals or submitting a claim for PFL) on any given day. However, it should be noted that the employee may not use both PFL and leave accruals on the same day.

Example 5:
In September 2019, an employee requests ten weeks of time off to care for their spouse with a serious health condition. The employee is approved for FMLA and PFL. The employee

chooses to use the entire ten weeks of their 2019 PFL entitlement which runs concurrently with their 2019 calendar year FMLA entitlement. The employee returns to work at the end of the ten-week absence.

In January 2020, the employee requests an additional twelve weeks of leave due to complications of their spouse's serious health condition. The employee once again meets the FMLA eligibility requirements and is granted their 2020 calendar year FMLA entitlement.

The employee is **not** entitled to an additional PFL benefit until September 2020.

PFL Claim Submission Procedure and Medical Documentation Provisions

All eligible employees who elect PFL will be paid by MetLife, the insurance carrier – not New York State as their employer. In addition to an agency's normal medical documentation provisions and/or any documentation requirements applicable under the FMLA, an eligible employee who wishes to utilize PFL benefits must complete the appropriate Request for Paid Family Leave form(s):

- Employee Application for Paid Family Leave: Bond with a Newborn, a Newly Adopted or Fostered Child (MET-PFL-1 and MET-PFL-2)
- Employee Application for Paid Family Leave: Care for a Family Member with Serious Health Condition (MET-PFL-1, MET-PFL-3, and MET-PFL-4)
- Employee Application for Paid Family Leave: Assist Families in Connection with a Military Deployment (MET-PFL-1 and MET-PFL-5)

Once the agency is in receipt of the completed form(s) from an employee, the agency must complete the employer information contained in Part B of the MET-PFL-1, verify employee eligibility (using NYBEAS), and return the form to the employee within three business days.

The employee must then submit the request for PFL together with the information supplied by their employer and any necessary certifications or proof of claim documentation, medical, or otherwise, to MetLife. Generally, the medical documentation and/or necessary certifications will be comparable to information normally required by the agency (FMLA documentation or documentation from a medical provider which justifies use of leave accruals will normally satisfy this requirement).

The following are the documentation requirements for employees requesting PFL (the employee is not required to submit this information to the agency, but should submit it directly to MetLife):

Childbirth

The documentation requirement for a claim for PFL to bond with a newly born child depends on whether the applicant is the birth mother or the second parent.

The birth mother must submit a birth certificate, if available, or documentation of pregnancy or birth from a health care provider. The document must include the mother's name and the child's due date or birth date. The second parent must submit, if available, a birth certificate naming them as a parent. If a birth certificate naming the second parent is not available, the second parent may submit a Voluntary Acknowledgment of Paternity or a Court Order of Filiation naming them as a parent.

If those documents are not available, the second parent can submit birth documentation from the birth mother's health care provider **and** either a marriage certificate or evidence of a civil union or domestic partnership to demonstrate the relationship to the birth mother.

If none of these documents are available, the second parent may submit other documentary evidence of parental relationship to the child, to be evaluated on a case-by-case basis by MetLife.

Foster Care

A claim for PFL to bond with a fostered child requires the submission of a letter of placement issued by a county or city department of social services or local voluntary agency. If a second parent is not named in documentation, a copy of the document plus a document verifying the relation to the parent named in the foster care placement will be needed.

Adoption

A claim for PFL to bond with an adopted child requires a court document finalizing adoption or, for PFL taken before the adoption is complete, a document showing that the adoption process is underway. Examples of proof of a pending adoption include a signed statement from an attorney, adoption agency, or adoption-related social service provider stating the employee is in the process of adopting a child.

If the second parent is not named in that document, they must also file documentation verifying the relationship to the parent named in the adoption.

Employees electing PFL to bond with a newborn, or a newly fostered or adopted child must complete MET-PFL-1 "Request for Paid Family Leave" and MET-PFL-2 "Bonding Certification".

Serious Health Condition

A claim for PFL to care for a family member with a serious health condition requires a medical certification completed by the care recipient's health care provider.

An authorization for personal health disclosure form is required by the HIPAA Privacy Rule and must be completed by the care recipient and retained on file with the health care provider in order to submit the required medical information.

Employees electing PFL to care for a family member with a serious health condition must complete MET-PFL-1 "Request for Paid Family Leave" and MET-PFL-3/MET-PFL-4 "Release of Personal Health Information/Health Care Provider Certification of Family Member with Serious Health Condition Under the Paid Family Leave Law".

Active Military Duty Deployment

A claim for PFL to assist loved ones when a family member is deployed abroad on active military duty generally requires MET-PFL-1 "Request for Paid Family Leave" and either MET-PFL-5 "Military Qualifying Event" certification, or a US Department of Labor "Certificate of Qualifying Exigency for Military Family Leave." Those forms include (1) military documentation of the family member's deployment or impending deployment (active duty orders or other notice from the military), and (2) documentation of the reason for leave.

Impact of PFL on Attendance and Leave Benefits

PFL does not allow for the accrual of seniority or other benefits during the leave. Employees utilizing PFL benefits are deemed to be in leave without pay status for purposes of the Attendance Rules.

An employee on PFL is not entitled to any credit for holidays (including floating holidays) which fall during a period of such leave. The employee may not be granted leave with full pay or compensatory time off for any such holiday.

An employee on PFL does not earn biweekly vacation or sick leave accruals. Employees on periodic PFL will earn accruals only so long as they are in full pay status (working, charging leave accruals, or on any other leave at full pay) for 7 out of 10 days in a pay period.

An employee's vacation anniversary date is **not** adjusted for periods of statutory PFL. (Note: there may be circumstances when an employee's PFL is contiguous to another type of leave and an adjustment to their vacation anniversary date may be necessary if the total of the leave exceeds six months.) An employee on PFL on their anniversary date is eligible to be credited with vacation bonus days upon return to the payroll.

An employee on PFL on their personal leave anniversary date is not credited with personal leave until they return to the payroll, and that date becomes the new personal leave anniversary date.

Time spent on PFL does not count as service credit toward eligibility for sick leave at half-pay.

An employee on PFL on their IPP grant date is not credited with sick leave until they return to the payroll. For example, an employee's sick leave grant dates are January 1 and July 1. The employee receives four days of sick leave on January 1 and goes on PFL from June 15 through August 1. The employee returns to the payroll on August 2. The employee receives four days of sick leave on August 2 which then becomes one of the two revised sick leave grant dates. (The second grant date then becomes February 2.)

An employee on PFL for 28 consecutive calendar days will have their Voluntary Reduction in Work Schedule (VRWS) agreement suspended.

Employees are not permitted to use PFL benefits during any period they are on leave for any other reason. An employee who is out of work due to a personal or work related disability, or any other type of short or long term leave, may not receive PFL benefits while in such status (e.g., charging leave accruals, workers' comp, leave donation, the disability period following child birth using IPP benefits, disciplinary suspension, etc.). While employees aren't required to return to duty prior to receiving PFL, it must be clear that the leave they were on previously has ended. For example, an employee who was injured at work and was receiving workers' compensation benefits may not elect PFL benefits until the day after they are cleared to return to duty. It should be noted that PFL may be used during the IPP 14 calendar day waiting period.

PFL may not be used to extend employment beyond the point it would otherwise end by operation of law, rule, or regulation.

For additional information on PFL benefits for RRSU employees, including Frequently Asked Questions and claim forms, visit www.cs.ny.gov/pfl.

Questions regarding PFL absences should be directed to the Attendance and Leave Unit at (518) 457-2295. Questions concerning PFL Eligibility should be directed to the Employee Benefits Division at (518) 549-8975. General questions regarding PFL can be sent to pfl@cs.ny.gov. Questions related to the payment of PFL claims should be directed to MetLife at 1-800-300-4296.

Attached is a chart comparing the provisions of the Attendance Rules, FMLA, and PFL.

Comparison of Provisions:
NYS Attendance Rules, Federal Family Medical Leave Act, and NYS Paid Family Leave

Family Relationship			
Relationship	**New York State Attendance Rules Family Sick Leave (FSL)**	**Federal Family and Medical Leave Act (FMLA)**	**New York State Paid Family Leave (PFL)**
Spouse	Yes	Yes	Yes
Spousal Equivalent	Only if residing with employee	No, regardless of residence	Yes, Domestic Partner as defined in Workers' Compensation Law (WCL) Section 4
Child Under 18 or Impaired	Yes	Yes	Yes
Child Over 18, not Impaired	Yes	No	Yes
Foster Child or Child *in Loco Parentis*	Only if residing with employee	Yes, regardless of residence	Yes, regardless of residence
Parents	Yes	Yes	Yes
Parent-in-Law	Yes	No	Yes
Foster Parent or Parent *in Loco Parentis*	Only if residing with employee	Yes, regardless of residence	Yes
Other Relatives or Relatives-in-Law	Yes, any relative or relative-in-law regardless of residence or any persons with whom an employee has been making his/her home*****	No	Yes (Grandparent, Grandchild and Parent-in-Law)

***** Security Units have a broader definition of Family, including the employee's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, grandchild or other relative living in the employee's household.

Impact on Salary and Benefits			
Leave Status	**New York State Attendance Rules Family Sick Leave (FSL)**	**Federal Family and Medical Leave Act (FMLA)**	**New York State Paid Family Leave (PFL)**
Leave at Full Pay	Employee may charge available accrued leave credits. Sick Leave is used first (up to 25 days of Sick Leave may be used for illness of family member, depending on negotiating unit). Employee is entitled to use other accruals upon exhaustion of Sick Leave for personal disability.** Use of credits other than Sick Leave for illness in family is discretionary with Appointing Authority.	FMLA does not require an employer to authorize use of paid leave where it would not otherwise be authorized. As a matter of State policy, when use of leave credits would be allowed under the Attendance Rules, employee may elect to use appropriate leave credits during a period of FMLA leave or may choose not to use credits at the employee's option.	Employee may choose to use of Family Sick Leave, Vacation, or Personal Leave for all or part of absence. Time charged to leave accruals does not count against an employee's annual entitlement of PFL.
Leave at Partial Pay	Sick Leave at Half-Pay or IPP Benefits (STD 50% / LTD 60%). Both are only available for personal disability of the employee.	Sick Leave at Half-Pay or IPP Benefits (STD 50% / LTD 60%). Both are only available for personal disability of the employee.	Employee who **chooses** not to charge Leave Accruals or Sick Leave at Half-Pay will receive up to 12 weeks of partial pay (50% - 67% State Average Weekly Wage) in accordance with WCL section 204, upon the first full day of absence.

** Sick leave credits for absences necessitated by illness in the employee's family are generally restricted to absences occasioned by the need for the services of the employee.

Eligibility			
	New York State Attendance Rules Family Sick Leave (FSL)	**Federal Family and Medical Leave Act (FMLA)**	**New York State Paid Family Leave (PFL)**
Full or Partial Day Absences	Employee option of full or partial days.	Employee option of full or partial days.	Full day absences only.
Service Requirements	Immediate Coverage for Annual Salaried Employees.	One Cumulative Year of State Service and 1250 work hours during the 52 consecutive weeks immediately preceding the date FMLA leave begins.	Employees working 20 hours or more per week become eligible for PFL upon completion of twenty-six consecutive weeks of State service. Employees who work less than 20 hours per week become eligible for PFL upon completion of one hundred seventy-five days of State service

TO: Manual Recipients
FROM: Jim Galvin, Director of Staffing Services
SUBJECT: Time Off to Vote

Legislation enacted in April 2019 (Chapter 55, Laws of 2019) amended the Election Law to allow employees to take up to three hours of paid leave to vote in any election in New York State.

Specifically, Section 3-110 of the Election Law was amended to allow employees, who are registered to vote and who provide at least two working days' advanced notice, up to three hours of leave, without charge to leave accruals, to vote in any election. Employees are not required to have Attendance Rules coverage to be granted this leave with pay.

The benefit is immediately available and applies to any general election, special election called by the Governor, primary election, or municipal election. There is no cap on the number of elections per year an employee may request Time Off to Vote. Time off to vote is **not** available for school or library elections.

Employees **must** be allowed time off with pay, without charge to leave accruals, for up to three hours either at the beginning or end of their regularly scheduled work shift. Whether the leave to vote occurs at the beginning or end of the work shift is at the employer's discretion and based on the operating needs of the agency.

While up to three hours of leave with pay is available for every election, not every employee's situation (i.e., work schedule, distance between the worksite and polling place, etc.) will require a full three hours of Time Off to Vote. However, agencies cannot deny time off from work simply because an employee might have time before or after their regular work hours. Agencies can engage employees who request the leave in an effort to refine the amount of time requested and granted in light of agency operations.

Like other leaves at full pay, leave to vote is considered full pay status for Attendance and Leave purposes (e.g., earning leave accruals, eligibility for sick leave at half-pay, etc.).

An appointing authority may **not** require proof of voter registration or proof that an employee actually voted.

Agencies must post notice of Time off to Vote at least ten workdays before any election. The notice must be conspicuously posted where it can be seen as employees come or go to their place of work.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 55 of the Laws of 2019 amended the Election Law effective April 1, 2019 to read as follows:

§ 3-110. Time allowed employees to vote.
1. A registered voter may, without loss of pay for up to three hours, take off so much working time as will enable him or her to vote at any election.
2. The employee shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.
3. If the employee requires working time off to vote the employee shall notify his or her employer not less than two working days before the day of the election that he or she requires time off to vote in accordance with the provisions of this section.
4. Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.

Attention All Employees

Time Allowed

Employees to Vote on Election Day

N.Y. Election Law Section 3-110

- As a registered voter, you may take off up to 3 hours, without loss of pay, to allow you time to vote.

- You may take time off at the beginning or end of your working shift, as your employer may designate, unless otherwise mutually agreed.

- You must notify your employer not less than 2 days before the day of the election that you will take time off to vote.

To: Manual Recipients
From: Jim Galvin, Director of Staffing Services
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2019

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2019. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Jim Galvin, Director of Staffing Services
SUBJECT: Military Leave for Combat Related Health Care Services

Legislation enacted in April 2018 (Chapter 16, Laws of 2018) amended Section 242 of the Military Law to entitle employees to take up to five work days of paid leave annually for healthcare related services. This provision will take effect on April 1, 2019. A copy of this legislation is attached.

Section 242 of the Military Law was amended to entitle State officers and employees paid leave without charge to leave credits for up to **five** work days of paid leave annually for using any healthcare related services associated with an illness or injury sustained while in a combat theater or combat zone of operations.

The benefit will become available to employees on April 1, 2019 for the remainder of the 2019 calendar year. Beginning January 1, 2020, the benefit will be available for the full calendar year. Military leave for combat related healthcare services is not cumulative and expires at the close of business on the last day of each calendar year. Employees are not required to have Attendance Rules coverage to be granted this leave with pay.

Employees are entitled to a leave of absence with pay for any combat related healthcare services scheduled during the employees' regular work hours. Employees who undergo combat related healthcare services outside their regular work schedules do so on their own time. For example, employees are not granted compensatory time off for combat related healthcare services that occur on pass days or holidays.

Military Leave for Combat Related Health Care Services may be used for either full or partial day absences. Like the use of accrued sick leave under the Attendance Rules, employing agencies may not require employees to use Military Leave for Combat Related Health Care Services in units greater than 1/4 hour, but may permit use of Military Leave for Combat Related Health Care Services in smaller units of time.

Employees must provide documentation that they served in a combat theater or combat zone of operations. Acceptable proof of service includes the employee's DD214, a certificate of release or discharge from active duty, or other department of defense document clearly indicating service in a combat theater or combat zone of operations.

Additionally, employees must submit medical documentation showing that the employee's absence was for the purpose of receiving healthcare services related to such duty. Combat related healthcare services may include any medical or psychological treatment or testing, hospital services, blood work or other laboratory tests.

Agencies are reminded to develop a new code in their paper or electronic timekeeping systems to manage usage of such leave by affected employees.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 16 of the Laws of 2018 amended the Military Law effective April 1, 2019 to read as follows:

§ 242 (5)(b) Every public officer or employee employed by the state of New York who served in a combat theater or combat zone of operations as documented by a copy of his or her DD214, certificate of release or discharge from active duty, or other applicable department of defense documentation, shall be paid his or her salary or other compensation as such public officer or employee for any and all periods of absence while utilizing any healthcare related services related to such duty, not exceeding five working days, in any one calendar year.
* NB Effective April 1, 2019

TO: Manual Recipients
FROM: Scott DeFruscio, Director of Staffing Services
SUBJECT: Line of Duty Sick Leave Related to World Trade Center Conditions

Introduction

Legislation enacted September 11, 2017 (Chapter 213, Laws of 2017) amended the New York State (NYS) General Municipal Law to authorize leave with pay without charge to accruals for State employees who are absent from work due to a qualifying World Trade Center (WTC) condition. There is no requirement that employees be subject to the Attendance Rules to be eligible for this benefit. The Law is set forth on page four of this bulletin.

Benefit

Specifically, Section 92-d of the General Municipal Law became effective on September 11, 2017 and now provides that an employee of the State of New York who filed a notice of participation in WTC rescue, recovery or cleanup operations shall be allowed unlimited workdays of paid Line of Duty Sick Leave for regular work hours during which the employee is absent from work due to a qualifying WTC condition. An employee who filed such notice of participation **and** subsequently develops a qualifying WTC condition as defined in section two of the Retirement and Social Security Law (RSSL), shall be granted Line of Duty Sick Leave commencing on the date such employee was diagnosed with a qualifying WTC condition regardless of whether the employee was employed by his/her current employer when performing WTC rescue, recovery or cleanup operations. Line of Duty Sick Leave is available each time an employee is absent from work due to a qualifying WTC condition and is in addition to any other leave allowed.

The law provides that on a prospective basis, eligible employees shall not have to charge sick leave but will instead receive leave with pay without charge to leave credits for any absences related to their qualifying condition. Furthermore, employees are eligible to have previously used sick leave restored to them if the absence is due to a qualifying WTC condition.

Eligibility

In order to be eligible for Line of Duty Sick Leave, an employee must have filed a notice of participation in WTC rescue, recovery or cleanup operations with any acceptable entity (e.g., New York State and Local Retirement System, New York City (NYC) Employee's Retirement System, NYC Fire Pension Fund, NYC Police Pension Fund, NYC Teacher's Retirement System, etc.), **and** must have a qualifying WTC condition as that term is defined in RSSL §2(36) which includes the following conditions:

(i) the member must have filed a written and sworn statement with his/her retirement system indicating the underlying dates and locations of employment not later than September eleventh, two thousand eighteen, and

(ii) the member passed a physical examination for entry into public service, or has authorized release of all relevant medical records, if he/she did not undergo a physical examination for entry into public service; and

(iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one except for certain exceptions found in RSSL §2(36).

In accordance with RSSL §2(36), eligible employees are those individuals who were **members of a covered public retirement system** when participating in the World Trade Center rescue, recovery or cleanup operations. However, they need not have been your employee on that date to be eligible for the law or for retroactive crediting of previously used sick leave – they just need to meet the eligibility requirements.

RSSL §2(36) is attached for your reference and includes a list of qualifying physical and psychological conditions which may entitle an employee to Line of Duty Sick Leave.

Required Documentation

As previously noted, any employee who has been diagnosed with a qualifying WTC condition and used accrued sick leave due to such condition shall receive a restoration of such sick leave accruals retroactive to the date the employee was diagnosed with a qualifying WTC condition.

In addition, agencies must restore sick leave at half-pay eligibility an employee used due to their qualifying WTC condition retroactive to the date the employee first used sick leave at half-pay for such condition.

To use Line of Duty Sick Leave and/or to request restoration of accruals or sick leave at half-pay eligibility, employees are required to submit appropriate proof that they meet the eligibility criteria. Employees must also furnish appropriate medical documentation for either prior absences, or for absences on an ongoing basis for which they continue to use Line of Duty Sick Leave.

Specifically, employees must submit a Notice of Participation in WTC rescue, recovery or cleanup operations **and** an acceptance letter from the retirement system of which they were a member when participating in such rescue, recovery, and cleanup operations.

Furthermore, employees must submit documentary medical evidence of their qualifying WTC condition and the date the condition commenced. The agency may require proof that any absence requested under this law was due to incapacity, medical treatment, or medical testing related to the employee's qualifying WTC condition. The medical documentation may include a certification from a medical provider stating the purpose of the absence was due to a qualifying WTC condition, or may also include a certification from a facility stating the employee attended an appointment for treatment or testing related to the employee's qualifying condition.

Prospective Line of Duty Sick Leave
For absences on a prospective basis, the employee must submit documentation that falls within the agency's normal medical documentation requirements. Generally, in addition to a brief statement of the nature of the illness, satisfactory medical documentation will include: a statement confirming that the employee is unable to perform the duties of the position due to the illness, the dates of the disability, and the prognosis including anticipated date of return to work. Satisfactory medical documentation should, in some manner, indicate that the absence is related to the employee's qualifying WTC condition.

Retroactive Restoration of Sick Leave or Sick Leave at Half-Pay
For prior absences related to an employee's qualifying WTC condition (for which an employee is seeking restoration of previously used sick leave accruals or sick leave at half-pay eligibility), the employee may not have specific medical documentation available from the time the absences took place. In such a case the employee may submit an attestation from their medical provider indicating the purpose of the absence was related to their qualifying WTC condition. Such an attestation must list the date of absence and that the absence was specifically related to the employee's qualifying WTC condition. Questions concerning restoration of sick leave at half-pay eligibility should be directed to the Attendance and Leave Unit.

Denial of Line of Duty Sick Leave
If the employee does not produce the required documentation or if it is reasonably determined that the use of Line of Duty Sick Leave credits is unjustified for a specific absence, the use of such leave at full pay may be denied. Agencies **must** contact the Attendance and Leave Unit prior to any denial (prospective or retroactive) of Line of Duty Sick Leave for a qualifying WTC condition.

Use of Line of Duty Sick Leave

Line of Duty Sick Leave may be used for either full or partial day absences. Like the use of accrued sick leave under the Attendance Rules, employing agencies may not require employees to use Line of Duty Sick Leave in units greater than 1/4 hour, but may permit use of Line of Duty Sick Leave in smaller units of time.

The leave is available only to the extent that it conflicts with the employee's work schedule. For example, an employee who attends appointments or receives treatment on a pass day, does so on their own time.

Any employee absent on a holiday for such purpose is considered to be observing the holiday and is not granted compensatory time off for the holiday.

Use of Line of Duty Sick Leave includes any necessary travel time, calculated to or from the employee's workplace.

Agencies are reminded to develop a new code in their paper or electronic timekeeping systems to manage usage of such leave by affected employees.

Any questions on these provisions should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

§92-d. Sick leave for officers and employees with a qualifying World Trade Center condition

Section 1. The general municipal law is amended by adding a new section 92-d to read as follows: Notwithstanding any other law, rule or regulation to the contrary, officers and employees of the state, a public authority or any municipal corporation outside of a city with a population of one million or more who filed a notice of participation in World Trade Center rescue, recovery or cleanup operations and subsequently develop a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, while employed by the state, a public authority or such municipal corporation or public authority shall be granted line of duty sick leave commencing on the date that such employee was diagnosed with a qualifying World Trade Center condition regardless of whether such officer or employee was employed by his or her current employer at the time that such officer or employee participated in World Trade Center rescue, recovery or cleanup operations. The officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the officer or employee is absent from work. Such leave shall be provided without loss of an officer or employee's accrued sick leave.

Section 2. The state shall reimburse any public authority or municipal corporation of less than one million people for the cost of any line (of) duty sick leave granted pursuant to this act.

Section 3. This act shall take effect immediately; provided, however, that any officer or employee who is currently employed by the state, public authority or municipal corporation who has been diagnosed with a qualifying World Trade Center condition and is using sick leave due to such

condition shall receive a restoration of such sick leave retroactive to the date such officer or employee was diagnosed with a qualifying World Trade Center condition.

Retirement and Social Security Law §2

36 (a)"Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met:

(i) such member, or eligible beneficiary in the case of the member's death, must have filed a written and sworn statement with the member's retirement system on a form provided by such system indicating the underlying dates and locations of employment not later than September eleventh, two thousand eighteen, and

(ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and

(iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one except for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York or sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. The deadline for filing a written and sworn statement required by subparagraph (i) of this paragraph shall be September eleventh, two thousand twenty-two for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York and sections five hundred seven-c, six hundred five-b, six hundred five-c,

or six hundred seven-b of this chapter. Every retirement system shall keep a copy of every written and sworn statement that is presented for filing not later than September eleventh, two thousand twenty-two, including those that are rejected for filing as untimely.

(b) "Qualifying condition or impairment of health" shall mean a qualifying physical condition, or a qualifying psychological condition, or both, except that for any member identified in paragraph (vi) of paragraph (e) of this subdivision, it shall only mean a qualifying psychological condition.

(c) "Qualifying physical condition" shall mean one or more of the following: (i) diseases of the upper respiratory tract and mucosae, including conditions such as rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, and upper airway hyper-reactivity, or a combination of such conditions; (ii) diseases of the lower respiratory tract, including but not limited to tracheo-bronchitis, bronchitis, chronic obstructive pulmonary disease, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic; (iii) diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure; (iv) diseases of the skin such as conjunctivitis, contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or (v) new onset diseases resulting from exposure as such diseases occur in the future including cancer, asbestos-related disease, heavy metal poisoning, and musculoskeletal disease.

(d) "Qualifying psychological condition" shall mean one or more of the following: (i) diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions; or (ii) new onset diseases resulting from exposure as such diseases occur in the future including chronic psychological disease.

(e) "Participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who: (i) participated in the rescue, recovery, or cleanup operations at the World Trade Center site, as defined in paragraph (f) of this subdivision; (ii) worked at the Fresh Kills Land Fill in New York; (iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan; (iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York; (v) repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, as defined in paragraph (f) of this subdivision, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, provided such work was performed prior to decontamination of such vehicles or equipment; or (vi) worked in the following departments, worksites and titles: (A) New York City Police Department at 11 Metrotec Center in Brooklyn or 1 Police Plaza in Manhattan as a Police Communication Technician (PCT), Supervisor Police Communication Technician (SPCT), Principal Police Communication Technician I, Principal Police Communication Technician II, Principal Police Communication Technician III, Administrative Manager - Communications, or in the

Police Administrative Aide title series; (B) Fire Department of the City of New York at 35 Empire Boulevard in Brooklyn, 79th Street Transverse in Manhattan, 83-98 Woodhaven Boulevard in Queens, 1129 East 180 Street in the Bronx, 65 Slosson Avenue in Staten Island, 9 Metrotec Center in Brooklyn, or 25 Rockaway Avenue in Brooklyn as Fire Alarm Dispatchers (FAD), Supervising Fire Alarm Dispatchers I (SFAD), Supervising Fire Alarm Dispatchers II (Borough Supervisor), Deputy Director & Director Fire Dispatch Operations, or Assistant Commissioner for Communications; (C) for the Fire Department of the City of New York's Emergency Medical Service at 1 or 9 Metrotec Centers in Brooklyn, or 55-30 58 Street in Maspeth Queens as Emergency Medical Specialist-Level I (EMT), Emergency Medical Specialist Level II-(Paramedic), Supervising Emergency Medical Specialist Level I (LT), Supervising Emergency Medical Specialist Level II (Capt), Deputy Chief EMS Communications, or Division Commander EMS Communications. (f) "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan. (g) "Qualifying period" shall mean: (i) any period of time within the forty-eight hours after the first airplane hit the towers, for any member identified in paragraphs (i) through (v) of paragraph (e) of this subdivision; (ii) a total of forty hours accumulated any time between September eleventh, two thousand one and September twelfth, two thousand two, for any member identified in subparagraphs (i) through (v) of paragraph (e) of this subdivision; or (iii) any period of time within the twenty-four hours after the first airplane hit the towers, for any member identified in subparagraph (vi) of paragraph (e) of this subdivision.

To: Manual Recipients
From: Scott DeFruscio, Director Staffing Services Division
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2018

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2018. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Scott DeFruscio, Director of Staffing Services
SUBJECT: Leave for Cancer Screening

Legislation enacted in December 2017 (Chapter 465, Laws of 2017) amended and repealed the Civil Service Law to entitle employees to take up to four hours of paid leave annually for cancer screening. This provision will take effect on March 18, 2018. A copy of this legislation is attached.

Section 159-b of the Civil Service Law was amended to entitle State officers and employees to paid leave without charge to leave credits for screening of **all** cancers. Section 159-c of the Civil Service Law which entitled State officers and employees to paid leave without charge to leave credits specifically for prostate cancer was repealed.

The benefit will become available to employees on March 18, 2018 for the remainder of the 2018 calendar year. Beginning January 1, 2019, the benefit will be available for the full calendar year. Leave for cancer screening is not cumulative and expires at the close of business on the last day of each calendar year. Employees are not required to have Attendance Rules coverage to be granted this leave with pay.

It should be noted that leave available under the current provisions of Section 159-b and 159-c of the Civil Service Law remain in effect until March 17, 2018.

Employees who charge leave credits for cancer screening on or after March 18, 2018 are entitled, upon submission of satisfactory documentation that the employee's absence was for purposes of cancer screening, to paid leave for such absence and to have credits used for that purpose restored.

Employees are entitled to a leave of absence for cancer screening scheduled during the employees' regular work hours. Employees who undergo screenings outside their regular work schedules do so on their own time. For example, employees are not granted compensatory time off for cancer screenings that occur on pass days or holidays.

Cancer screening includes physical exams, blood work or other laboratory tests for the detection of cancer. Travel time is included in this four-hour cap. Absence beyond the four-hour cap must be charged to leave credits.

The appointing authority may require satisfactory medical documentation that the employee's absence was for the purpose of cancer screening.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 465 of the Laws of 2017 amended the Civil Service Law effective March 18, 2018, by amending 159-b and repealing 159-c, to read as follows:

§ 159-b. Excused leave to undertake a screening for cancer.
1. Every public officer, employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, employee of any municipality, employee of any school district or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system shall be entitled to absent himself or herself and shall be deemed to have a paid leave of absence from his or her duties or service as such public officer or employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, employee of any municipality, employee of any school district, or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system for a sufficient period of time, not to exceed four hours on an annual basis, to undertake a screening for cancer.

2. The entire period of the leave of absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer, employee of this state, employee of any county, employee of any community college, employee of any public authority, employee of any public benefit corporation, employee of any board of cooperative educational services (BOCES), employee of any vocational education and extension board, or a school district enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, employee of any municipality, employee of any school district or any employee of a participating employer in the New York state and local employees' retirement system or any employee of a participating employer in the New York state teachers' retirement system is otherwise entitled to.

TO: Manual Recipients
FROM: Scott DeFruscio, Director Staffing Services Division
SUBJECT: Implementation of Paid Family Leave Benefits for Management/Confidential Employees

Introduction

Legislation enacted in April 2016 (Chapter 54, Laws of 2016) amended Workers' Compensation Law Article 9 to provide for a Paid Family Leave (PFL) benefit for eligible employees working in New York State. PFL is intended to balance the demands of the workplace with the needs of families by providing workers with reasonable amounts of paid time off. It encourages stability in the family and productivity in the workplace.

PFL affords eligible employees the right to take paid leave, ***without charge to leave credits***, to participate in providing care, including physical or psychological care, for a serious health condition ***of a family member of the employee;*** to bond with the employee's biological, adopted, or foster child during the first twelve months after the child's birth or placement in the home; or to attend to obligations arising because the spouse, domestic partner, child, or parent of the employee is on active duty or has been notified of an impending call to active duty in the United States armed forces (a qualifying exigency).

It should be noted that PFL is *not* available for an employee's *own* serious health condition or military activation. PFL is a separate and distinct benefit separate from any other leave available under the Attendance Rules. Payments for PFL will be financed by deductions withheld from an employee's biweekly wages and PFL benefits will be paid by an insurance carrier, MetLife.

The PFL benefit will be available beginning January 1, 2018 for Management/Confidential (M/C)-designated employees in bargaining units 06, 18, 46, and 66. The PFL benefit may be extended to represented employees through the collective bargaining process. Further information will be provided about represented employees as it becomes available.

PFL Monetary Benefit

The requirement to provide PFL, the amount of PFL authorized, and the amount of pay that an employee may receive will be phased in as follows:

1. On or after January 1, 2018, an employee may receive up to eight weeks of PFL benefits in any 52-week period at 50% of the employee's average weekly wage, not to exceed 50% of the New York State average weekly wage (SAWW).
2. On or after January 1, 2019, an employee may receive up to ten weeks of PFL benefits in any 52-week period at 55% of the employee's average weekly wage, not to exceed 55% of the SAWW.

3. On or after January 1, 2020, an employee may receive up to ten weeks of PFL benefits in any 52-week period at 60% of the employee's average weekly wage, not to exceed 60% of the SAWW.
4. On or after January 1, 2021, and for each year thereafter, an employee may receive up to twelve weeks in any 52-week period at 67% of the employee's average weekly wage, not to exceed 67% of the SAWW.

Eligibility

M/C employees, including hourly and per diem employees without Attendance Rules coverage, may be eligible for PFL. For purposes of PFL eligibility, New York State is considered one employer. An employee's eligibility for PFL will be determined by the Department of Civil Service and will be available for review and certification by agency Human Resource staff using the New York Benefits Eligibility and Accounting System (NYBEAS).

M/C employees working 20 hours or more per week become eligible for PFL upon completion of twenty-six consecutive weeks of State service. M/C employees who work less than 20 hours per week become eligible for PFL upon completion of one hundred seventy-five days of State service. Unlike the Family and Medical Leave Act (FMLA), there is no requirement of completion of a minimum number of hours worked before an employee becomes eligible for PFL.

A full-time employee who meets the twenty-six consecutive weeks of employment eligibility criteria, and has an agreed upon unpaid leave of absence or vacation, is entitled to PFL immediately upon return to pay status. The employee does not need to work an additional twenty-six consecutive weeks to be eligible for PFL again. Similarly, a part-time employee who meets the one hundred seventy-five days of regular employment eligibility criteria, and has an agreed upon unpaid leave of absence or vacation, is entitled to PFL immediately upon return to pay status. The employee does not need to work an additional one hundred seventy-five days to be eligible for PFL again.

To further clarify, the employee's use of any scheduled vacation time, personal leave, sick leave, other leaves at full pay, or other periods where the employee is away from work but is still considered to be an employee shall be counted toward the twenty-six consecutive work weeks for full-time employees or toward the one hundred seventy-five day requirement for part-time employees, so long as the biweekly premium payment the employee makes to the cost of PFL benefits have been paid for such periods of time.

For purposes of determining eligibility for PFL, separations of less than one year will not constitute a break in service. Once an employee has had a separation of more than one year they will once again have to meet the minimum eligibility requirements for PFL.

Amount of Paid Family Leave to be Granted

An M/C employee is entitled to receive PFL benefits for up to eight, ten, or twelve weeks (depending on the phase/year) during any 52-week period beginning with the first full day of absence related to the qualifying event. There is no waiting period. PFL may be taken periodically or in a block of time. Please note that this 52-week period is not the same as a calendar year method for determining the amount of FMLA available to an eligible employee.

An employee's entitlement for PFL for bonding with a child after birth or adoption and/or foster care expires at the end of the consecutive 52-week period beginning on the date of the birth, or at the end of the consecutive 52-week period beginning on the date of the child's placement. An employee may use PFL for periodic bonding leave, **but may not charge accruals and receive PFL on the same day.**

It should be noted that an employee may opt to receive Income Protection Plan (IPP) benefits ***or*** PFL benefits during the post-partum period during which the employee is disabled, but may not receive both benefits simultaneously.

PFL Definitions

Workers' Compensation Law section 201 provides the following definitions:

1. *Child* – a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis.
2. *Domestic Partner* – has the same meaning as set forth in Section 4 of the Workers' Compensation Law.
3. *Serious Health Condition* – an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, continuing treatment or continuing supervision by a health care provider. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective where the family member is under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
4. *Parent* – a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.
5. *Family Member* – a child, parent, grandparent, grandchild, spouse, or domestic partner as defined in this section.
6. *Grandchild* – a child of the employee's child.
7. *Health Care Provider* – a physician, physician's assistant, chiropractor, dentist or dental hygienist, physical therapist or physical therapy assistant, nurse, midwife, podiatrist, optometrist, psychologist, social worker, occupational therapist, speech-language

pathologist, mental health practitioner, or any person licensed under the NYS Public Health Law.

8. *Grandparent* – a parent of the employee's parent.
9. *Providing Care* – Physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters, and personal attendant services.

Election of PFL Benefits

The eight, ten, or twelve weeks (depending on the phase/year) of PFL may be taken on a continuous or on a periodic basis. When PFL is taken on a periodic basis, it must be used in **single** day increments. Partial day increments are **not** permitted.

In the event an employee wishes to take time off to care for a qualifying family member an employee **may** elect to receive full pay by using accrued and unused vacation, personal leave, holiday leave, and/or family sick leave available in accordance with the Attendance Rules and the FMLA, or to **not** charge available accrued leave credits and receive the statutory PFL benefit in accordance with the monetary PFL benefits noted above. ***Time charged to leave accruals will not count against an employee's annual PFL entitlement.***

An employee should provide at least 30 days' advance notice if the reason for PFL is foreseeable. Foreseeable qualifying events include: an expected birth; placement for adoption or foster care; planned medical treatment for a serious health condition of a family member; the planned medical treatment for a serious injury or illness of a covered service member; or other known military exigency. If 30 days' notice is not practicable then notice must be given as soon as reasonably possible. An employee must advise the employer as soon as possible when dates of a scheduled leave change, are extended, or were initially unknown.

Interplay of the Attendance Rules, FMLA, and PFL

Like the FMLA, PFL provides for the following:

- Prohibition of retaliation against an employee for requesting or for receiving PFL benefits.
- Restoration to the same position or a similar position the employee previously held prior to taking PFL.
- Mandates employers to maintain an employee's health insurance benefits during the period of PFL, provided the employee pays their share of the premium during the leave.

Statutory PFL benefits must be used concurrently with any entitlements an employee may be eligible for under the FMLA. Unlike the FMLA, PFL benefits are available in **full** day increments only. When an employee exercises the option to use FMLA in less than full day

increments, the employee is not eligible for PFL. Additionally, unpaid leave taken under the FMLA counts against PFL if an employee wishes to use their PFL entitlement. If an employee wishes to charge accruals under the FMLA, they are not entitled to use their PFL and the time charged to leave credits **does not** count against their PFL entitlement.

Examples *(assume examples below relate to a full time annual salaried employee who meets the eligibility criteria for both FMLA and PFL benefits)**:***

Example 1:
In February 2018, an employee tells their agency they need to take eight weeks off to care for their 12-year-old child who had orthopedic surgery and requires 24/7 care. The employee has low accrual balances and wishes to use PFL. The employee is not required to exhaust their leave accruals and may submit a claim for PFL immediately. The eight-week absence counts toward both their PFL entitlement (eight weeks in 2018) and their 2018 calendar year FMLA entitlement.

Example 2:
An employee adopts a child in June 2018 and elects to use twelve weeks of unpaid FMLA. In January 2019, the employee requests an additional ten weeks of leave to bond with the adopted child and is approved for an additional twelve weeks of FMLA. The employee may take this time as unpaid FMLA, FMLA charged to accruals, or may elect to submit a claim for up to ten weeks of PFL.

Example 3:
An employee who has exhausted all their sick leave credits tells their agency they require four months (sixteen weeks) off to care for their newborn child. The employee first uses IPP Short Term Disability (STD) benefits during the presumed period of disability following childbirth (generally six weeks under normal circumstances). The employee then opts to take six weeks of unpaid leave under FMLA exhausting their 12-week calendar year FMLA entitlement. Following exhaustion of their FMLA entitlement, the employee may opt to charge vacation and personal leave credits (under the State's longstanding child care leave policy) **or** may request to use PFL benefits by submitting a PFL claim to MetLife.

Example 4:
In July 2018, an employee requests time off to care for their domestic partner who has been diagnosed with a serious health condition. The employee requests every Tuesday, Thursday, and Friday off to accompany their partner to treatment. Since domestic partners are not covered under the FMLA, the employee is entitled to either charge appropriate leave accruals under the Attendance Rules or may elect to use PFL benefits. The employee has the choice of either option (charging appropriate accruals or submitting a claim for PFL) on any given day. However, it should be noted that the employee may not use both PFL and leave accruals on the same day.

Example 5:
In September 2018, an employee requests eight weeks of time off to care for their spouse with a serious health condition. The employee is approved for FMLA and PFL. The employee chooses to use the entire eight weeks of their 2018 PFL entitlement which runs concurrently with their 2018 calendar year FMLA entitlement. The employee returns to work at the end of the eight-week absence.

In January 2019, the employee requests an additional twelve weeks of leave due to complications of their spouse's serious health condition. The employee once again meets the FMLA eligibility requirements and is granted their 2019 calendar year FMLA entitlement.

Due to the increased PFL benefit for 2019 (ten weeks), the employee is also entitled to, and elects to claim an additional two weeks of PFL, completing the PFL entitlement for the 52-week period from the onset of illness which began in September 2018. The additional two weeks of PFL used in January 2019 brings the employee to a total PFL benefit of ten weeks for the 52-week period which began in September 2018.

Upon exhausting their PFL benefits the employee may elect to use FMLA with or without charge to accruals for the remaining ten weeks.

PFL Claim Submission Procedure and Medical Documentation Provisions

All eligible employees who elect PFL will be paid by MetLife, the insurance carrier – not New York State as their employer. In addition to an agency's normal medical documentation provisions and/or any documentation requirements applicable under the FMLA, an eligible employee who wishes to utilize PFL benefits must complete the appropriate Request for Paid Family Leave form(s):

- Employee Application for Paid Family Leave: Bond with a Newborn, a Newly Adopted or Fostered Child (MET-PFL-1 and MET-PFL-2)
- Employee Application for Paid Family Leave: Care for a Family Member with Serious Health Condition (MET-PFL-1, MET-PFL-3, and MET-PFL-4)
- Employee Application for Paid Family Leave: Assist Families in Connection with a Military Deployment (MET-PFL-1 and MET-PFL-5)

Once the agency is in receipt of the completed form(s) from an employee, the agency must complete the employer information contained in Part B of the MET-PFL-1, verify employee eligibility (using NYBEAS), and return the form to the employee within three business days.

The employee must then submit the request for PFL together with the information supplied by their employer and any necessary certifications or proof of claim documentation, medical, or otherwise, to MetLife. Generally, the medical documentation and/or necessary certifications will be comparable to information normally required by the agency (FMLA documentation or

documentation from a medical provider which justifies use of leave accruals will normally satisfy this requirement).

The following are the documentation requirements for employees requesting PFL (the employee is not required to submit this information to the agency, but should submit it directly to MetLife):

Childbirth

The documentation requirement for a claim for PFL to bond with a newly born child depends on whether the applicant is the birth mother or the second parent.

The birth mother must submit a birth certificate, if available, or documentation of pregnancy or birth from a health care provider. The document must include the mother's name and the child's due date or birth date. The second parent must submit, if available, a birth certificate naming them as a parent. If a birth certificate naming the second parent is not available, the second parent may submit a Voluntary Acknowledgment of Paternity or a Court Order of Filiation naming them as a parent.

If those documents are not available, the second parent can submit birth documentation from the birth mother's health care provider **and** either a marriage certificate or evidence of a civil union or domestic partnership to demonstrate the relationship to the birth mother.

If none of these documents are available, the second parent may submit other documentary evidence of parental relationship to the child, to be evaluated on a case-by-case basis by MetLife.

Foster Care

A claim for PFL to bond with a fostered child requires the submission of a letter of placement issued by a county or city department of social services or local voluntary agency. If a second parent is not named in documentation, a copy of the document plus a document verifying the relation to the parent named in the foster care placement will be needed.

Adoption

A claim for PFL to bond with an adopted child requires a court document finalizing adoption or, for PFL taken before the adoption is complete, a document showing that the adoption process is underway. Examples of proof of a pending adoption include a signed statement from an attorney, adoption agency, or adoption-related social service provider stating the employee is in the process of adopting a child.

If the second parent is not named in that document, they must also file documentation verifying the relationship to the parent named in the adoption.

Employees electing PFL to bond with a newborn, or a newly fostered or adopted child must complete MET-PFL-1 "Request for Paid Family Leave" and MET-PFL-2 "Bonding Certification".

Serious Health Condition

A claim for PFL to care for a family member with a serious health condition requires a medical certification completed by the care recipient's health care provider.

An authorization for personal health disclosure form is required by the HIPAA Privacy Rule and must be completed by the care recipient and retained on file with the health care provider in order to submit the required medical information.

Employees electing PFL to care for a family member with a serious health condition must complete MET-PFL-1 "Request for Paid Family Leave" and MET-PFL-3/MET-PFL-4 "Release of Personal Health Information/Health Care Provider Certification of Family Member with Serious Health Condition Under the Paid Family Leave Law".

Active Military Duty Deployment

A claim for PFL to assist loved ones when a family member is deployed abroad on active military duty generally requires MET-PFL-1 "Request for Paid Family Leave" and either MET-PFL-5 "Military Qualifying Event" certification, or a US Department of Labor "Certificate of Qualifying Exigency for Military Family Leave." Those forms include (1) military documentation of the family member's deployment or impending deployment (active duty orders or other notice from the military), and (2) documentation of the reason for leave.

Impact of PFL on Attendance and Leave Benefits

PFL does not allow for the accrual of seniority or other benefits during the leave. Employees utilizing PFL benefits are deemed to be in leave without pay status for purposes of the Attendance Rules.

An employee on PFL is not entitled to any credit for holidays (including floating holidays) which fall during a period of such leave. The employee may not be granted leave with full pay or compensatory time off for any such holiday.

An employee on PFL does not earn biweekly vacation or sick leave accruals. Employees on periodic PFL will earn accruals only so long as they are in full pay status (working, charging leave accruals, or on any other leave at full pay) for 7 out of 10 days in a pay period.

An employee's vacation anniversary date is **not** adjusted for periods of statutory PFL. (Note: there may be circumstances when an employee's PFL is contiguous to another type of leave

and an adjustment to their vacation anniversary date may be necessary if the total of the leave exceeds six months.) An employee on PFL on their anniversary date is eligible to be credited with vacation bonus days upon return to the payroll.

An employee on PFL on their personal leave anniversary date is not credited with personal leave until they return to the payroll, and that date becomes the new personal leave anniversary date.

Time spent on PFL does not count as service credit toward eligibility for sick leave at half-pay.

An employee on PFL on their IPP grant date is not credited with sick leave until they return to the payroll. For example, an employee's sick leave grant dates are January 1 and July 1. The employee receives four days of sick leave on January 1 and goes on PFL from June 15 through August 1. The employee returns to the payroll on August 2. The employee receives four days of sick leave on August 2 which then becomes one of the two revised sick leave grant dates. (The second grant date then becomes February 2.)

An employee on PFL for 28 consecutive calendar days will have their Voluntary Reduction in Work Schedule (VRWS) agreement suspended.

Employees are not permitted to use PFL benefits during any period they are on leave for any other reason. An employee who is out of work due to a personal or work related disability, or any other type of short or long term leave, may not receive PFL benefits while in such status (e.g., charging leave accruals, workers' comp, leave donation, the disability period following child birth using IPP benefits, disciplinary suspension, etc.). While employees aren't required to return to duty prior to receiving PFL, it must be clear that the leave they were on previously has ended. For example, an employee who was injured at work and was receiving workers' compensation benefits may not elect PFL benefits until the day after they are cleared to return to duty.

It should be noted that PFL may not be used to extend employment beyond the point it would otherwise end by operation of law, rule, or regulation.

For additional information on PFL benefits for M/C employees, including Frequently Asked Questions and claim forms, visit www.cs.ny.gov/pfl.

Questions regarding PFL absences should be directed to the Attendance and Leave Unit at (518) 457-2295. Questions concerning PFL Eligibility should be directed to the Employee Benefits Division at (518) 549-2027. Questions related to the payment of PFL claims should be directed to MetLife at 1-800-300-4296.

Attached is a chart comparing the provisions of the Attendance Rules, FMLA, and PFL.

Comparison of Provisions:
NYS Attendance Rules, Federal Family Medical Leave Act, and NYS Paid Family Leave

Family Relationship			
Relationship	**New York State Attendance Rules Family Sick Leave (FSL)**	**Federal Family and Medical Leave Act (FMLA)**	**New York State Paid Family Leave (PFL)**
Spouse	Yes	Yes	Yes
Spousal Equivalent	Only if residing with employee	No, regardless of residence	Yes, Domestic Partner as defined in Workers' Compensation Law (WCL) Section 4
Child Under 18 or Impaired	Yes	Yes	Yes
Child Over 18, not Impaired	Yes	No	Yes
Foster Child or Child *in Loco Parentis*	Only if residing with employee	Yes, regardless of residence	Yes, regardless of residence
Parents	Yes	Yes	Yes
Parent-in-Law	Yes	No	Yes
Foster Parent or Parent *in Loco Parentis*	Only if residing with employee	Yes, regardless of residence	Yes
Other Relatives or Relatives-in-Law	Yes, any relative or relative-in-law regardless of residence or any persons with whom an employee has been making his/her home*	No	Yes (Grandparent, Grandchild and Parent-in-Law)

* Security Units have a broader definition of Family, including the employee's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, grandchild or other relative living in the employee's household.

Impact on Salary and Benefits			
Leave Status	**New York State Attendance Rules Family Sick Leave (FSL)**	**Federal Family and Medical Leave Act (FMLA)**	**New York State Paid Family Leave (PFL)**
Leave at Full Pay	Employee may charge available accrued leave credits. Sick Leave is used first (up to 15 days of Sick Leave may be used for illness of family member). Employee is entitled to use other accruals upon exhaustion of Sick Leave for personal disability.** Use of credits other than Sick Leave for illness in family is discretionary with Appointing Authority.	FMLA does not require an employer to authorize use of paid leave where it would not otherwise be authorized. As a matter of State policy, when use of leave credits would be allowed under the Attendance Rules, employee may elect to use appropriate leave credits during a period of FMLA leave or may choose not to use credits at the employee's option.	Employee may choose to use of Family Sick Leave, Vacation, or Personal Leave for all or part of absence. Time charged to leave accruals does not count against an employee's annual entitlement of PFL.
Leave at Partial Pay	Sick Leave at Half-Pay M/C IPP Benefits (STD 50% / LTD 60%). Both are only available for personal disability of the employee.	Sick Leave at Half-Pay M/C IPP Benefits (STD 50% / LTD 60%). Both are only available for personal disability of the employee.	Employee who **chooses** not to charge Leave Accruals or Sick Leave at Half-Pay will receive 8 weeks in 2018 and up to 12 weeks of partial pay when fully implemented in 2021 (50% - 67% State Average Weekly Wage) in accordance with WCL section 204, upon the first full day of absence.

** Sick leave credits for absences necessitated by illness in the employee's family are generally restricted to absences occasioned by the need for the services of the employee.

Eligibility			
	New York State Attendance Rules Family Sick Leave (FSL)	**Federal Family and Medical Leave Act (FMLA)**	**New York State Paid Family Leave (PFL)**
Full or Partial Day Absences	Employee option of full or partial days.	Employee option of full or partial days.	Full day absences only.
Service Requirements	Immediate Coverage for Annual Salaried Employees.	One Cumulative Year of State Service and 1250 work hours during the 52 consecutive weeks immediately preceding the date FMLA leave begins.	Employees working 20 hours or more per week become eligible for PFL upon completion of twenty-six consecutive weeks of State service. Employees who work less than 20 hours per week become eligible for PFL upon completion of one hundred seventy-five days of State service

To: Manual Recipients
From: Scott DeFruscio, Director Staffing Services Division
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2017

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2017. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

To: Manual Recipients
From: Scott DeFruscio, Director Staffing Services Division
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2016

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2016. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

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Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

To: Manual Recipients
From: Scott DeFruscio, Director Staffing Services Division
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2015

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2015. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th

Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th
Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

To: Manual Recipients
From: Blaine Ryan-Lynch, Director Staffing Services Division
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2014

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2014. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits: Professional Services Negotiating Unit (BU 68)

Introduction
The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011-2016 Agreement between the State of New York and the United University Professions (UUP) for employees in the Professional Services Negotiating Unit (PSNU) (BU 68) (Lifeguards), as it relates to the Deficit Reduction Plan (DRP). All employees in lifeguard titles who are members of this bargaining unit in annual salaried, non-annual salaried (hourly) year-round, and non-annual salaried (hourly) seasonal positions between September 1, 2013 and August 31, 2015 are subject to the provisions of this Program regardless of Attendance Rules coverage.

This DRP consists of two sections: Section I addresses employees who work year-round either as annual salaried employees or non-annual salaried (hourly) employees; Section II addresses summer seasonal employees who are non-annual salaried (hourly) employees who work during the summer season only. Each section has two installments.

The DRP for annual salaried employees and non-annual salaried (hourly) employees who work year-round shall exist for 52 payroll periods in two separate 26 payroll period installments that span three State Fiscal Years (SFYs): 2013-14, 2014-15, and 2015-16.

The DRP for non-annual salaried (hourly) employees who work during the summer season shall exist in two separate installments in SFY 2014-15 and SFY 2015-16.

Section I – Year-Round Employees (Annual Salaried and Hourly) First Installment
The DRP reduces compensation by the equivalent of 1.923% of 26 pay periods of compensation, to be withheld from employees' checks paid beginning September 25, 2013 and ending September 10, 2014 for Administration Lag payroll, and October 3, 2013 through September 18, 2014 for Institution Lag payroll in the 2013-2014 and 2014-2015 SFYs. A maximum of two days salary will be reduced and granted as Deficit Reduction Leave (DRL) for PSNU employees in BU 68 effective September 2013. The salary reductions between payroll period 12 and payroll period 22 will correspond to the value of these two DRL days. Reductions made during this period shall **not** result in repayment. Specifically:

- Up to two days of DRL will be granted to annual salaried and non-annual salaried (hourly) year round position employees. These two DRL days must be taken as directed by the appointing authority and need not be the same two days for all employees at an agency. Appointing authorities will be encouraged to schedule the two directed DRL days as soon as practicable upon implementation of this DRP; however, such leave shall be granted no later than August 2014.

- Employees who work less than full-time or on an hourly basis will be granted the appropriate pro-rata share of DRL which will be taken as directed by the appointing authority. Agencies should contact the Attendance and Leave Unit for guidance in determining the pro-rata share of DRL days to be granted for these employees.

TEMPORARY REDUCED COMPENSATION RATE					
Section I – Year-Round Employees (Annual Salaried and Hourly)					
First Installment: 26 payroll periods					
SFY	**RATE**	**PAYROLL CYCLE Administration Lag (A)**	**AMT OF DRL GRANTED**	**PAYROLL CYCLE Institution Lag (I)**	**AMT OF DRL GRANTED**
2013-14	1.923%	11 payroll periods: (A) PP 12 (paid 9/25/13) through PP 22 (paid 2/12/14)	2 days*	11 payroll periods: (I) PP 12 (paid 10/3/13) through PP 22 (paid 2/20/14)	2 days*
2013-14	1.923%	3 payroll periods: (A) PP 23 (paid 2/26/14) through last day of PP 25 (paid 3/26/14)	0 days**	2 payroll periods: (I) PP 23 (paid 3/6/14) through last day of PP 24 (paid 3/20/14)	0 days**
2014-15	1.923%	12 payroll periods: (A) PP 26 (paid 4/9/14) through last day of PP 11 (paid 9/10/14)	0 days**	13 payroll periods: (I) PP 25 (paid 4/3/14) through last day of PP 11 (paid 9/18/14)	0 days**

*Determined at the discretion of each appointing authority and shall be taken as directed by the appointing authority between September 2013 and August 2014, and shall **NOT** be repaid.
**Reductions shall be repaid.

Section I – Year-Round Employees (Annual Salaried and Hourly) Second Installment
The DRP reduces compensation by the equivalent of 1.538% of 26 pay periods of compensation, to be withheld from employee's checks paid beginning September 24, 2014 and ending September 9, 2015 for Administration Lag payroll, and October 2, 2014 through September 17, 2015 for Institution Lag payroll in the 2014-15 and 2015-16 SFYs.

TEMPORARY REDUCED COMPENSATION RATE					
Section I – Year-Round Employees (Annual Salaried and Hourly)					
Second Installment: 26 payroll periods					
SFY	**RATE**	**PAYROLL CYCLE Administration Lag (A)**	**AMT OF DRL GRANTED**	**PAYROLL CYCLE Institution Lag (I)**	**AMT OF DRL GRANTED**
2014-15	1.538%	14 payroll periods: (A) PP 12 (paid 9/24/14) through last day of PP 25 (paid 3/25/15)	0 days*	14 payroll periods: (I) PP 12 (paid 10/2/14) through last day of PP 25 (paid 4/2/15)	0 days**
2015-16	1.538%	12 payroll periods: (A) PP 26 (paid 4/8/15) through last day of PP 11 (paid 9/9/15)	0 days*	12 payroll periods: (I) PP 26 (paid 4/16/15) through last day of PP 11 (paid 9/17/15)	0 days**

*Reductions shall be in lieu of, and not in addition to, the previous 1.923% rate in SFYs 2013-14 and 2014-15. **Reductions shall be repaid.

Section II – Summer Seasonal Employees (Hourly) First Installment
No deductions will be made for non-annual salaried (hourly) employees who work during the SFY 2013-14 summer season.

The first installment of the DRP shall begin with SFY 2014-15 payroll period 5 or when the employee joins the payroll for the 2014 summer season, and conclude when the employee leaves the payroll for the 2014 summer season.

TEMPORARY REDUCED COMPENSATION RATE					
Section II – Summer Season Employees (Hourly)					
First Installment: 4 pay periods plus any additional based on employee's schedule					
SFY	**RATE**	**PAYROLL CYCLE Admin and Admin Extra Lag**	**AMT OF DRL GRANTED**	**PAYROLL CYCLE Institution Lag**	**AMT OF DRL GRANTED**
2014-15	1.923%	4 payroll periods: (A) PP 5 (paid 6/18/14) through PP 8 (paid 7/30/14)	.5 days*	4 payroll periods: (I) PP 5 (paid 6/26/14) through PP 8 (paid 8/7/14)	.5 days*
2014-15	1.923%	(A) PP 9 (paid 8/13/14) until employee leaves payroll for 2014 Summer Season	0 days**	(I) PP 9 (paid 8/21/14) until employee leaves payroll for 2014 Summer Season	0 days**

*Determined at the discretion of each appointing authority and shall be taken as directed by the appointing authority between September 2013 and August 2014, and shall **NOT** be repaid.
**Reductions shall be repaid.

Section II – Summer Seasonal Employees (Hourly) Second Installment
The second installment shall begin when the employee joins the payroll for the 2015 summer season and conclude when the employee leaves the payroll for the 2015 summer season.

TEMPORARY REDUCED COMPENSATION RATE					
Section II – Summer Season Employees (Hourly)					
Second Installment: 2015 Summer Season					
SFY	**RATE**	**PAYROLL CYCLE Administration and Administration Extra Lag**	**AMT OF DRL GRANTED**	**PAYROLL CYCLE Institution Lag**	**AMT OF DRL GRANTED**
2015-16	1.538%*	Begins when employee joins 2015 summer payroll and concludes when employee leaves 2015 summer payroll	0 days**	Begins when employee joins 2015 summer payroll and concludes when employee leaves 2015 summer payroll	0 days**

*Reductions shall be in lieu of, and not in addition to, the previous 1.923% in the 2014 summer season. **Reductions shall be repaid.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility
All employees in lifeguard titles in BU 68 who are represented by PSNU [either annual salaried or non-annual salaried (hourly) who work year-round, or hourly who work during the summer season only] will be subject to this DRP regardless of coverage under the Attendance Rules.

Notwithstanding, PSNU-represented employees in BU 68 who have an hourly rate of less than $7.39 in pay periods 12 through 25 of the 2013-14 SFY and pay periods 26 through 11 in the 2014-15 SFY, shall not be subject to the DRP in the 2013-14 and 2014-15 SFYs; employees represented by PSNU in BU 68 who have an hourly rate of less than $7.36 in pay periods 12 through 25 for Administration payroll and 12 through 24 for Institution payroll of the 2014-15 SFY, and pay periods 26 through 11 for Administration payroll and 25 through 11 for Institution payroll of SFY 2015-16 shall not be subject to the DRP.

State Fiscal Year	Payroll Periods	Hourly Rate
2013-2014	12 – 18 (A) 12 – 18 (I)	$7.39
2013-2014	19 – 25 (A) 19 – 25 (I)	$7.39
2014-2015	26 – 11 (A) 26 – 11 (I)	$7.39
2014-2015	12 – 19 (A) 12 – 18 (I)	$7.36
2014-2015	20 – 25 (A) 19 – 24 (I)	$7.36
2015-2016	26 – 11 (A) 25 – 11 (I)	$7.36

Joining or Rejoining State Service During the DRP
Employees who join or rejoin State service as members of BU 68 during the DRP shall be subject to the DRP's Temporary Reduced Compensation Rate applicable on the employee's respective start date.

Agencies should contact the Attendance and Leave Unit for guidance in determining the appropriate amount of DRL to be granted for employees who join or rejoin State service as members of BU 68 during the DRP.

Amount of DRL Granted by the Appointing Authority
See appropriate charts above.

Using DRL

All DRL granted will be taken at the discretion of each appointing authority and shall be taken between September 2013 and August 2014. Questions concerning an employee exceeding the vacation balance cap should be directed to the Attendance and Leave Unit.

DRL may be granted in quarter-hour increments. Employees are directed to take DRL at the discretion of the appointing authority and cannot choose when to take the DRL.

Time directed to be taken as DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether time directed to be taken as DRL will or will not count for purposes of completing employee probationary periods.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution will take DRL as directed by the appointing authority; however, such leave shall be granted no later than August 2014.

Movement From One Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency shall take DRL as directed by the appointing authority, prior to movement.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement shall take DRL as directed by the appointing authority, prior to movement.

Sick Leave at Half-Pay

DRL must be taken as directed by the appointing authority prior to employees being placed on sick leave at half-pay.

Annual-salaried employees or seasonal hourly employees who go on sick leave at half-pay after the start of the DRP will be directed to take DRL by the appointing authority proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance and Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been directed to take the appropriate amount of DRL.

When granting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Agencies should contact the Attendance and Leave Unit for guidance in determining the appropriate amount of DRL to be granted for employees who are out or go out on Workers' Compensation Leave at the start of or during the DRP.

Military Leave

Agencies should contact the Attendance and Leave Unit for guidance in determining the appropriate amount of DRL to be granted for employees who are out or go out on Military leave at the start of or during the DRP.

Leave Donation

Employees must be directed to take DRL by the appointing authority prior to being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL taken as directed by the appointing authority in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may be directed to take DRL to cover this period at the discretion of the appointing authority.

DRL directed to be taken for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period which corresponds to the time the DRL was taken.

Questions concerning this Program should be directed to the Attendance and Leave Unit of this Department at 518-457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Special Holiday Waiver Memoranda of Understanding for Security Supervisors Unit (SSpU), Security Services Unit (SSU), and Agency Police Services Unit (APSU)

The Governor's Office of Employee Relations has signed Memoranda of Understanding (MOUs) with Council 82, the New York State Correctional Officers and Police Benevolent Association, and the Police Benevolent Association of New York State, Inc. extending the benefits provided for employees in the Security Supervisors Unit (SSpU), the Security Services Unit (SSU), and the Agency Police Services Unit (APSU), formerly known as Agency Law Enforcement Services (ALES) Unit, entitled Waiver of Holiday Work Option for Military Veterans. Questions concerning this benefit, which is described below, may be referred to the Attendance and Leave Unit of this Department at (518) 457-2295.

Eligibility
In order to be eligible for these benefits, an employee must be an eligible veteran as described in Section 63 of the Public Officers Law or an honorably discharged former reservist covered by Section 249 of the Military Law. See the attached SUMMARY OF BENEFITS UNDER PUBLIC OFFICERS LAW, SECTION 63 AND MILITARY LAW, SECTION 249 for a discussion of these law benefits.

Duration of the MOUs
The benefits provided by the MOUs apply to Memorial Day, May 27, 2013, Independence Day, July 4, 2013, and Veterans' Day, November 11, 2013. The MOUs expire December 31, 2013 unless extended by mutual agreement of the parties.

Benefit Description
The MOUs permit certain veterans, who are eligible under Section 63 of the Public Officers Law for holiday benefits (law benefits) in connection with May 27 (Memorial Day) and November 11 (Veterans' Day), to file a different holiday waiver (Special Holiday Waiver) for contractual holiday compensation benefits for those two holidays. Specifically, veterans in the Security Supervisors Unit, Security Services Unit, or Agency Police Services Unit covered by Public Officers Law Section 63 may opt to receive holiday pay or holiday leave (contractual benefit) for work on Memorial Day 2013 and Veterans' Day 2013, regardless of their holiday compensation election for all other holidays. The same election must apply to both holidays.

The MOUs also permit certain former reservists who are eligible under Section 249 of the New York State Military Law for holiday benefits (law benefits) in connection with the Independence Day holiday to file a different holiday waiver (Special Holiday Waiver) for contractual holiday compensation benefits for that holiday. In other words, former eligible reservists in the SSpU, SSU or, APSU who are covered by Section 249 of the Military Law may opt to receive holiday pay or holiday leave (contractual benefit) for work on Independence Day, July 4, 2013, regardless of their election for all other holidays.

An employee who is both an eligible veteran under Section 63 of the Public Officers Law and an eligible former reservist covered under Section 249 of the Military Law may file a Special Holiday Waiver as an eligible veteran and/or as an eligible former reservist.

Relationship of Regular and Special Holiday Waivers
For purposes of this discussion, a holiday waiver under Article 16.2 of the negotiated agreements continues to be applicable to all holidays (except as modified by a Special Holiday Waiver under the MOUs), and is referred to as a Regular Holiday Waiver option.

- Employees in these units who have a Regular Holiday Waiver option of holiday pay for work on holidays (either by default because they never filed a waiver or because they filed a waiver electing holiday pay) receive holiday pay for all holidays unless they file Special Holiday Waivers as eligible veterans for Memorial Day and Veterans' Day 2013 and/or as eligible former reservists for Independence Day 2013, who elect to receive holiday leave for those special holidays.

- Employees in these units who have a Regular Holiday Waiver option of holiday leave for work on holidays continue to receive holiday leave for all holidays unless they file Special Holiday Waivers as eligible veterans for Memorial Day and Veterans' Day 2013 and/or as eligible former reservists for Independence Day 2013, who elect to receive holiday pay for those special holidays.

Dates for Filing Waivers
The benefits granted by the MOUs are available in calendar year 2013. The benefits are available for Memorial Day, May 27, 2013, Veterans' Day, November 11, 2013, and/or Independence Day, July 4, 2013.

Eligible employees may file a Special Holiday Waiver under the MOUs for the Memorial Day, Veterans' Day, and/or Independence Day holidays during the Special Holiday Waiver Election Period from April 1, 2013 through May 15, 2013.

Appointment to State Service
Employees in these units who enter State service after May 15, 2013 may file both a Regular Holiday Waiver and/or a Special Holiday Waiver at time of appointment to State service.

Transfer From Other Units
For employees who transfer into these units after May 15, 2013, all holidays are governed by the Regular Holiday Waiver (and, in the case of transfer from the SSpU, SSU, or APSU, the Special Holiday Waiver, if any) filed in their previous position and they may not file new Waivers at time of transfer to this unit. If the program is continued in subsequent years, those employees' first opportunity to file a Special Holiday Waiver would occur between April 1 and May 15 of the year following their transfer into the SSpU, SSU, or APSU position.

Of course, employees retain the ability to change their Regular Holiday Pay option each year during the open period between April 1 and May 15 as provided in Article 16.2 of the negotiated agreements.

Impact of Expiration of MOU
The MOUs expire December 31, 2013 unless extended by mutual agreement of the parties.

In the event these provisions are not extended by mutual agreement of the parties, Special Holiday Waivers will no longer be in effect beginning with calendar year 2014 and the Regular Holiday Waiver option will apply to all holidays, including Memorial Day, Veterans' Day, and Independence Day.

If the parties agree to extend these provisions beyond calendar year 2013, an employee's Regular Holiday Waiver option will again apply to all holidays including Memorial Day, Veterans' Day, and Independence Day, unless the employee files a new Special Holiday Waiver during the next applicable open period.

Of course, employees retain the ability to change their Regular Holiday Pay option each year during the open period between April 1 and May 15 as provided in Article 16.2 of the negotiated agreements.

Special Holiday Waiver Form
A Special Holiday Waiver form for this purpose is attached. Agencies may adapt the form to meet their needs provided it continues to include all the information on the attached form.

Benefits Under Negotiated Agreements
Apart from providing the opportunity to file a Special Holiday Waiver for Memorial Day, Veterans' Day, and/or Independence Day 2013, the MOUs do not modify holiday benefits available under the negotiated agreements.

Employees in the SSpU, SSU, and APSU continue to add holiday leave to vacation credits subject to applicable vacation maximums, regardless of whether that holiday leave is earned in connection with a Regular Holiday Waiver option or a Special Holiday Waiver.

Benefits Under Law
The MOUs do not in any way modify benefits available under Section 63 of the Public Officers Law or Section 249 of the Military Law.

Attachments
Summary of Benefits Under Public Officers Law, Section 63 and Military Law, Section 249
Special Holiday Waiver form

Summary of Benefits Under Public Officers Law, Section 63 and Military Law, Section 249

The following information is provided solely as a reference summary for agency convenience and does not contain any new information.

Benefits Under Section 63 of the Public Officers Law

Section 63 of the Public Officers Law entitles certain veterans to a day off with pay on or in lieu of Memorial Day and November 11, Veterans' Day.

To qualify, an employee must be a veteran who was honorably discharged or who was discharged under honorable conditions and who:

- Served in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States (including reservists who served on active duty in these branches) at any time; or

- Served in the Armed Forces of the United States or its allies in time of war, including National Guard members serving on active duty during time of war or national emergency.

There is no New York State residency requirement for the benefit provided by Section 63 nor are employees required to have Attendance Rules coverage in order to be eligible for the benefit provided by Section 63.

When an eligible veteran who has elected holiday pay for holidays worked is required to work on one of these holidays, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to Section 63 of the Public Officers Law. If, on the other hand, such employee waived holiday pay one day of holiday leave satisfies both the contractual entitlement and the legal entitlement under Section 63.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for Memorial Day and November 11 under the Public Officers Law is tied to the 24-hour calendar day period on the date of the holiday and is not capped at 7.5 or 8 hours.

Benefits Under Section 249 of the Military Law

Section 249 of the Military Law entitles honorably discharged former reservists or former National Guard members who served during peace time to a day off with pay on or in lieu of July 4. In order to be eligible, at least one day of this reserve service must have occurred outside time of war as defined in Section 85.1(c) of the Civil Service Law.

To qualify, the reserve duty must have been active reserve duty during which the employee was required to attend drills, not inactive reserve duty where the employee was subject to being recalled but was not required to attend drills. Reservists who were honorably discharged from a period of active reserve duty and who have reenlisted for a subsequent period of reserve duty are eligible for this benefit.

There is no New York State residency requirement; an employee need not have served in a reserve or National Guard unit in New York State. There is no requirement that an employee have Attendance Rules coverage in order to be eligible for this benefit.

When an eligible former reservist who has elected holiday pay for holidays worked is required to work on July 4, Independence Day, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to law. If, on the other hand, such employee waived holiday pay, one day of holiday leave satisfies both the contractual entitlement and the legal entitlement.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for July 4 under Section 249 of the Military Law is tied to the 24-hour calendar day period on July 4 and is not capped at 7.5 or 8 hours.

Summary of Benefits Under Public Officers Law, Section 63 and Military Law, Section 249

The following information is provided solely as a reference summary for agency convenience and does not contain any new information.

Benefits Under Section 63 of the Public Officers Law

Section 63 of the Public Officers Law entitles certain veterans to a day off with pay on or in lieu of Memorial Day and November 11, Veterans' Day.

To qualify, an employee must be a veteran who was honorably discharged or who was discharged under honorable conditions and who:

- Served in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States (including reservists who served on active duty in these branches) at any time; or

- Served in the Armed Forces of the United States or its allies in time of war, including National Guard members serving on active duty during time of war or national emergency.

There is no New York State residency requirement for the benefit provided by Section 63 nor are employees required to have Attendance Rules coverage in order to be eligible for the benefit provided by Section 63.

When an eligible veteran who has elected holiday pay for holidays worked is required to work on one of these holidays, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to Section 63 of the Public Officers Law. If, on the other hand, such employee waived holiday pay one day of holiday leave satisfies both the contractual entitlement and the legal entitlement under Section 63.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for Memorial Day and November 11 under the Public Officers Law is tied to the 24-hour calendar day period on the date of the holiday and is not capped at 7.5 or 8 hours.

Benefits Under Section 249 of the Military Law

Section 249 of the Military Law entitles honorably discharged former reservists or former National Guard members who served during peace time to a day off with pay on or in lieu of July 4. In order to be eligible, at least one day of this reserve service must have occurred outside time of war as defined in Section 85.1(c) of the Civil Service Law.

To qualify, the reserve duty must have been active reserve duty during which the employee was required to attend drills, not inactive reserve duty where the employee was subject to being recalled but was not required to attend drills. Reservists who were honorably discharged from a

period of active reserve duty and who have reenlisted for a subsequent period of reserve duty are eligible for this benefit.

There is no New York State residency requirement; an employee need not have served in a reserve or National Guard unit in New York State. There is no requirement that an employee have Attendance Rules coverage in order to be eligible for this benefit.

When an eligible former reservist who has elected holiday pay for holidays worked is required to work on July 4, Independence Day, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to law. If, on the other hand, such employee waived holiday pay, one day of holiday leave satisfies both the contractual entitlement and the legal entitlement.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for July 4 under Section 249 of the Military Law is tied to the 24-hour calendar day period on July 4 and is not capped at 7.5 or 8 hours.

SPECIAL HOLIDAY WAIVER FOR SECURITY SUPERVISORS UNIT, SECURITY SERVICES UNIT, OR AGENCY POLICE SERVICES UNIT
For Memorial Day, Veterans' Day, and Independence Day 2013

*Complete this form only if you wish to have a **different** holiday compensation option (Special Holiday Waiver) for holiday compensation benefits under the collective bargaining agreements for work on Memorial Day, Veterans' Day 2013, and/or Independence Day 2013 than your Regular Holiday Waiver option under Article 16.2 of your contract.* ***If you do not complete this form, your Regular Holiday Waiver option under Article 16.2 will continue to apply to all holidays, including Memorial Day, Veterans' Day, and Independence Day 2013.***

If you are both an eligible veteran and an eligible former reservist, you may complete A and/or B below.

This form must be completed and submitted to your personnel/payroll office between April 1, 2013 and May 15, 2013.

A. Eligible Veteran Covered by Public Officers Law Section 63

_____I currently receive holiday pay for all holidays worked. However, I elect to receive holiday leave for work on Memorial Day, May 27, 2013 and Veterans' Day, November 11, 2013.

_____I currently receive holiday leave for all holidays worked. However, I elect to receive holiday pay for work on Memorial Day, May 27, 2013 and Veterans' Day, November 11, 2013.

B. Eligible Former Reservist Covered By NYS Military Law Section 249

_____I currently receive holiday pay for all holidays worked. However, I elect to receive holiday leave for work on Independence Day, July 4, 2013.

_____I currently receive holiday leave for all holidays worked. However, I elect to receive holiday pay for work on Independence Day, July 4, 2013.

Name (please print) _____

Signature_____

Date _____Work Location_____

Social Security Number (last four digits) __ __ __ __

BARGAINING UNIT: SSpU ☐ SSU ☐ APSU ☐

To: Manual Recipients
From: Blaine Ryan-Lynch, Director Staffing Services Division
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2013

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Police Benevolent Association of New York State, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2013. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits: Security Services Unit (BU-01)

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2009–2016 Agreement between the State of New York and the New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) for employees in the Security Services Unit with a bargaining unit designation of 01 (BU-01), as they relate to the Deficit Reduction Plan (DRP) and Deficit Reduction Leave (DRL). All employees who are members of BU-01 on or after July 23, 2012 are subject to the provisions of this program regardless of Attendance Rules coverage.

Specifically:

- Employees hired before March 26, 2012 and on payroll July 23, 2012 shall be credited with 9 days of DRL.
- Employees hired on March 26, 2012 and on payroll July 23, 2012 shall be credited with 4 days of DRL.
- Employees hired after March 26, 2012 and before March 7, 2013 for employees on the Instituion Lag payroll calendar or before March 14, 2013 for employees on the Administration Lag payroll calendar shall be credited with 4 days of DRL, prorated to reflect the number of DRP pay periods the employee will participate in.
- Employees who work less than full-time or on a per diem basis, or who perform extra time or extra service, will receive the appropriate pro-rata share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to September 30, 2014 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees who are represented by NYSCOPBA (BU-01) will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, NYSCOPBA (BU-01)-represented employees hired before March 26, 2012 who have an hourly rate of less than $7.39 in the 2011–12 SFY or an hourly rate of less than $7.36 in the 2012–13 SFY shall not be subject to the DRP in that respective year. Additionally, NYSCOPBA (BU-01)-represented employees hired after March 26, 2012 who have an hourly rate of less than $7.37 in the 2012–13 SFY shall not be subject to the DRP.

Full-Time Annual-Salaried Employees

Full-time annual-salaried employees are credited with DRL pursuant to the chart below as of July 23, 2012 and are allowed to begin charging DRL on July 23, 2012, subject to supervisory approval.

NYSCOPBA BU-01 DRL Groups

	Hired before 3/26/12	**Hired 3/26/12**	**Hired after 3/26/12 and before 3/7/13 (Inst.) or before 3/14/13 (Admin.)**
Hours Credited to 75 hour per pay period employees	67.5	30	30, prorated for number of DRP pay periods employee will participate in (see note below).
Hours Credited to 80 hour per pay period employees	72	32	32, prorated for number of DRP pay periods employee will participate in (see note below).
Biweekly Calculation for 75 hour per pay period employees	2011-12: 1.44 2012-13: 1.15 *Rates only for calculating Extra Service and Extra Time Worked	1.20 *Rate only for calculating Extra Service and Extra Time worked	1.20 hrs. x number of DRP pay periods employee will participate in (see note below).
Biweekly Calculation for 80 hour per pay period employees	2011-12: 1.54 2012-13: 1.23 *Rates only for calculating Extra Service and Extra Time Worked	1.28 *Rate only for calculating Extra Service and Extra Time worked	1.28 hrs. x number of DRP pay periods employee will participate in (see note below).

NOTE: For employees hired on or after 3/26/12 and before 3/7/13 for employees on the Institution Lag payroll calendar, or before 3/14/13 for employees on the Administration Lag payroll calendar, the number of DRP pay periods in which an employee could potentially participate in, are as follows:

Institution Lag - 25 payroll periods: SFY 2011–12 payroll period 26 (paid 4/19/12) through SFY 2012–13 payroll period 24 (paid 3/21/13).

Administration Lag - 25 payroll periods: 25 SFY 2012–13 payroll period 1 (paid 4/25/12) through SFY 2012–13 payroll period 25 (paid 3/27/13).

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with prorated days of DRL, based on their employment percentage and based on the chart above.

Example 1: A part-time annual-salaried employee hired on January 1, 2012 whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL at the start of the program.

Example 2: A part-time annual-salaried employee on the Institution Lag payroll calendar hired on August 2, 2012 whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 10.00 hours of DRL at the start of the program (see formula below).

(1.28) x (15.5 pay periods based on date of hire) x .5 = 9.75 hours (rounded down from 9.92)

Employees entering BU-01 on or after March 26, 2012

For employees hired after March 26, 2012, to determine the amount of DRL to be credited to such employees, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

80 hour per pay period employees

((1.28) x (Remaining Pay Periods in DRP that employee is expected to participate in) x (Employee's FTE equivalent))

75 hour per pay period employees

((1.20) x (Remaining Pay Periods in DRP that employee is expected to participate in) x (Employee's FTE equivalent))

Extra Time Worked

Part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee hired on January 1, 2012 whose normal schedule is 50% (40 hours in a biweekly pay period) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value (1.23 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.615 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 1.75 hours. Agencies will

need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

NOTE: Agencies will have to provide additional DRL for extra time worked on all days which have been or will be paid within the 2011–12 and 2012–13 SFYs. The biweekly DRL value for SFY 2011–12 that should be used is 1.44 hours per pay period for 75 hour per pay period employees and 1.54 hours per pay period for 80 hour per pay period employees. The biweekly DRL value for SFY 2012–13 that should be used is 1.15 hours per pay period for 75 hour per pay period employees and 1.23 hours per pay period for 80 hour per pay period employees.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee hired January 1, 2012 whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 72 hours of DRL upon ratification. If the employee worked 20 hours of extra service for two pay periods during the 2012–13 SFY (25% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (1.23 hours per pay period) by 0.25 to prorate for a 25% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .615 hours).

NOTE: Agencies will have to provide additional DRL for extra service worked on all days which have been or will be paid within the 2011–12 and 2012–13 SFYs. The biweekly DRL value for SFY 2011–12 that should be used is 1.44 hours per pay period for 75 hour per pay period employees and 1.54 hours per pay period for 80 hour per pay period employees. The biweekly DRL value for SFY 2012–13 that should be used is 1.15 hours per pay period for 75 hour per pay period employees and 1.23 hours per pay period for 80 hour per pay period employees.

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for hourly employees.

Voluntary Reduction in Work Schedule (VRWS) Employees

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees on VRWS.

Per Diem Employees

Per diem employees are subject to the DRP and therefore are entitled to DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

If an employee wishes to use any or all DRL credits, such credits must be used prior to September 30, 2014. DRL credits may not be carried over beyond September 30, 2014. The vacation credit balance of an employee may not exceed 45 days on either October 1, 2012 or October 1, 2013.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

Employees may elect to use DRL for all absences (including block vacations) in the same manner as vacation leave. DRL credits may not be used to cover unscheduled absences such as employees calling in sick but may be used for pre-planned appointments with prior supervisory approval including medical appointments or pre-scheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, pre-shift briefing payments, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit unused DRL credits. There is no lump sum payment for unused days of DRL.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the BU-01 DRP for any reason during the DRP period, and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing either the employee's compensation or the employee's vacation and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who leave State employment or are no longer subject to the BU-01 DRP.

Movement to a Different Bargaining Unit

Agencies might have to adjust the DRL credited to an employee who leaves BU-01 for a position in another bargaining unit. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees moving from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP.

NOTE: Earned and unused DRL retained by an employee who leaves BU-01 prior to September 30, 2014 will expire on September 30, 2014.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain earned and unused DRL; however, such leave will expire on September 30, 2014.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain earned and unused DRL; however, such leave will expire on September 30, 2014.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with the applicable amount of DRL based on the employee's date of hire, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Workers' Compensation Leave at the start of or during the DRP.

Military Leave

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out, or who go out, on Military leave for any part of the DRP.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits: Security Supervisors Units (BU-61/BU-91)

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2009–2016 Agreement between the State of New York and Council 82 for employees in the Security Supervisors Units with a bargaining unit designation of either 61 or 91 (BU-61/BU-91), as they relate to the Deficit Reduction Plan (DRP) and Deficit Reduction Leave (DRL). All employees who are members of BU-61/BU-91 on or after May 3, 2012 and before March 15, 2013 for employees on the Administration Lag payroll calendar or before March 8, 2013 for employees on the Institution Lag payroll calendar are subject to the provisions of this program, regardless of Attendance Rules coverage.

Specifically:

- Employees who were members of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 before March 15, 2012 for employees on the Administration Lag payroll calendar or before March 8, 2012 for employees on the Institution Lag payroll calendar shall be credited with 9 days of DRL.
- Employees who were members of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 on or after March 15, 2012 for employees on the Administration Lag payroll calendar or on or after March 8, 2012 for employees on the Institution Lag payroll calendar shall be credited with 4 days of DRL.
- Employees who first join BU-61/BU-91 on or after August 16, 2012 and prior to March 14, 2013 for employees on the Administration Lag payroll calendar or on or after August 9, 2012 and prior to March 7, 2013 for employees on the Institution Lag payroll calendar shall be credited with DRL prorated to reflect the number of pay periods between date of membership and March 31, 2013.
- Employees who work less than full-time or on a per diem basis, or who perform extra time or extra service, will receive the appropriate pro-rata share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to June 30, 2013 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees who are represented by Council 82 (BU-61/BU-91) will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, Council 82 (BU-61/BU-91)-represented employees who have an hourly rate of less than $7.39 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY (only applies to employees who joined Council 82 before March 15, 2012 for employees on the Administration Lag payroll calendar or employees hired before March 8, 2012 for employees on the Institution Lag payroll calendar); employees represented by Council 82 (BU-61/BU-91) who have an hourly rate of less than $7.36 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

Earning DRL

Full-Time Annual-Salaried Employees

Full-time annual-salaried employees are credited with DRL pursuant to the chart below as of May 3, 2012 and are allowed to begin charging DRL on May 3, 2012, subject to supervisory approval. Note that, in addition to the eligibility requirements established below for Group 1 and Group 2, employees must have also been a member of Council 82 on May 3, 2012 to be members of such groups.

Council 82 BU 61/BU 91 DRL Groups

	Group 1	**Group 2**	**Group 3**
Institution Lag	Joined Council 82 before 3/8/12	Joined Council 82 3/8/12-8/8/12	Joined Council 82 8/9/12-3/6/13
Administration Lag	Joined Council 82 before 3/15/12	Joined Council 82 3/15/12-8/15/12	Joined Council 82 8/16/12-3/13/13
Hours Credited (40 hour workweek)	72	32	(1.23 hours) x (pay periods employee will be part of Council 82 by 3/6/13 or 3/13/13 [depending on employee's payroll cycle])
Hours Credited (37.5 hour workweek)	67.5	30	(1.15 hours) x (pay periods employee will be part of Council 82 by 3/6/13 or 3/13/13 [depending on employee's payroll cycle])

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with prorated days of DRL, based on their employment percentage on May 3, 2012, or based on their date of entry into BU-61/BU-91 if such membership occurs after May 3, 2012, and based on the chart above.

For example, a part-time annual-salaried employee hired on January 1, 2012 whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL at the start of the program.

Employees entering BU-61/BU-91 on or after August 16, 2012 (Administration Lag) or on or after August 9, 2012 (Institution Lag)

For employees hired between August 16, 2012 and March 13, 2013 (Administration Lag) or between August 9, 2012 and March 6, 2013 (Institution Lag), the Agency should make the following calculation (rounded down to the nearest quarter-hour) to determine the amount of DRL to be issued to such employees:

40 hour workweek employees: ((1.23) x (Remaining Pay Periods in DRP that employee is expected to participate in) x (Employee's FTE equivalent))

37.5 hour workweek employees: ((1.15) x (Remaining Pay Periods in DRP that employee is expected to participate in) x (Employee's FTE equivalent))

Extra Time Worked

Part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee who was a member of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 on March 1, 2012 whose normal schedule is 50% (40 hours in a biweekly period) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value (1.23 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.615 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 1.75 hours (rounded down from 1.845 hours). Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

NOTE: Agencies will have to provide additional DRL for extra time worked on all days which have been or will be paid within the 2011-12 and 2012-13 SFYs. The biweekly DRL values for SFY 2011-12 that should be used in this calculation is 1.54 hours per pay period for employees with 40 hour workweeks or 1.44 hours per pay period for employees with 37.5 hour workweeks.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee who was a member of BU-61/BU-91 on May 3, 2012 and who first joined BU-61/BU-91 on November 1, 2010 whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 72 hours of DRL upon ratification. If the employee worked 20 hours of extra service for two pay periods during the 2012–13 SFY (25% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (1.23 hours per pay period) by 0.25 to prorate for a 25% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .615 hours).

NOTE: Agencies will have to provide additional DRL for extra service worked on all days which have been or will be paid within the 2011-12 and 2012-13 SFYs. The biweekly DRL values for SFY 2011-12 that should be used in this calculation is 1.54 hours per pay period for employees with 40 hour workweeks or 1.44 hours per pay period for employees with 37.5 hour workweeks.

Annual-Salaried Employee Changes in Employment Percentage
Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees
Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for hourly employees.

Voluntary Reduction in Work Schedule (VRWS) Employees
Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees on VRWS.

Per Diem Employees
Per diem employees are subject to the DRP and therefore are entitled to DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

If an employee wishes to use any or all DRL credits, such credits must be used prior to July 1, 2013. DRL credits may not be carried over beyond June 30, 2013. The vacation credit balance of an employee may not exceed 45 days on October 1, 2012.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit all earned and unused DRL credits. There is no lump sum payment for earned and unused days of DRL.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the BU-61/BU-91 DRP for any reason during the DRP period, and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing either the employee's compensation or the employee's vacation and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who leave State employment or are no longer subject to the BU-61/BU-91 DRP.

Movement to a Different Bargaining Unit

Agencies might have to adjust the DRL credited to an employee who leaves BU-61/BU-91 for a position in another bargaining unit. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees moving from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP.

NOTE: Earned and unused DRL retained by an employee who leaves BU-61/BU-91 prior to June 30, 2013 will expire on June 30, 2013.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL; however, such leave will expire on June 30, 2013.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL; however, such leave will expire on June 30, 2013.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with the applicable amount of DRL based on the employee's date of hire, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Workers' Compensation Leave at the start of or during the DRP.

Military Leave

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out, or who go out, on Military leave for any part of the DRP.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits: Security Services Unit (BU-21)

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2016 Agreement between the State of New York and the New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) for employees in the Security Services Unit with a bargaining unit designation of 21 (BU-21), as they relate to the Deficit Reduction Plan (DRP) and Deficit Reduction Leave (DRL). All employees who are members of BU-21 on or after March 2, 2012 are subject to the provisions of this program regardless of Attendance Rules coverage.

Specifically:

- Employees hired before March 15, 2012 for employees on the Administration Lag payroll calendar or before March 8, 2012 for employees on the Institution Lag payroll calendar shall be credited with 9 days of DRL.
- Employees hired on or after March 15, 2012 and prior to June 7, 2012 for employees on the Administration Lag payroll calendar or on or after March 8, 2012 and prior to June 14, 2012 for employees on the Institution Lag payroll calendar shall be credited with 4 days of DRL.
- Employees hired on or after June 7, 2012 and prior to March 14, 2013 for employees on the Administration Lag payroll calendar or on or after June 14, 2012 and prior to March 7, 2013 for employees on the Institution Lag payroll calendar shall be credited with DRL prorated to reflect the number of pay periods between date of hire and March 31, 2013.
- Employees who work less than full-time or on a per diem basis, or who perform extra time or extra service, will receive the appropriate pro-rata share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to March 31, 2013 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees who are represented by NYSCOPBA (BU-21) will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, NYSCOPBA (BU-21)-represented employees who have an hourly rate of less than $7.39 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY (only applies to employees hired before March 15, 2012 for employees on the Administration Lag payroll calendar or employees hired prior to March 8, 2012 for employees on the Institution Lag payroll calendar); employees represented by NYSCOPBA (BU-21) who have an hourly rate of less than $7.36 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

Earning DRL

Full-Time Annual-Salaried Employees
Full-time annual-salaried employees are credited with DRL pursuant to the chart below as of March 2, 2012 and are allowed to begin charging DRL on March 2, 2012, subject to supervisory approval.

NYSCOPBA BU-21 DRL Groups

	Group 1	**Group 2**	**Group 3**
Institution Lag	Hired before 3/8/12	Hired 3/8/12-6/13/12	Hired 6/14/12-3/6/13
Administration Lag	Hired before 3/15/12	Hired 3/15/12-6/6/12	Hired 6/7/12-3/13/13
Hours Credited to 75 hour per pay period employees	67.5	30	21.85 (prorated for date of hire) Institution Lag; and 23.00 (prorated for date of hire) Administration Lag
Hours Credited to 80 hour per pay period employees	72	32	23.37 (prorated for date of hire) Institution Lag; and 24.60 (prorated for date of hire) Administration Lag
Bi-weekly Calculation for 75 hour per pay period employees	N/A	N/A	1.15 hrs. x number of pay periods employed within time period above
Bi-weekly Calculation for 80 hour per pay period employees	N/A	N/A	1.23 hrs. x number of pay periods employed within time period above

Part-Time Annual-Salaried Employees
Part-time annual-salaried employees are credited with prorated days of DRL, based on their employment percentage on March 2, 2012 and based on the chart above.

For example, a part-time annual-salaried employee hired on January 1, 2012 whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL at the start of the program.

Employees entering BU-21 on or after June 7, 2012 (Administration Lag) or on or after June 14, 2012 (Institution Lag)

For employees hired on or after June 7, 2012 (Administration Lag) or on or after June 14, 2012 (Institution Lag), to determine the amount of DRL to be credited to such employees, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

80 hour per pay period employees

((1.23) x (Remaining Pay Periods in DRP that employee is expected to participate in) x (Employee's FTE equivalent))

75 hour per pay period employees

((1.15) x (Remaining Pay Periods in DRP that employee is expected to participate in) x (Employee's FTE equivalent))

Extra Time Worked

Part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a biweekly period) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value (1.23 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.615 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 1.75 hours. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

NOTE: Agencies will have to provide additional DRL for extra time worked on all days which have been or will be paid within the 2011–12 and 2012–13 SFYs. The biweekly DRL value for SFY 2011–12 that should be used is 1.44 hours per pay period for 75 hour per pay period employees and 1.54 hours per pay period for 80 hour per pay period employees.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 72 hours of DRL upon ratification. If the employee worked 20 hours of extra service for two pay periods during the 2012–13 SFY (25% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (1.23 hours per pay period) by 0.25 to prorate for a 25% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .615 hours).

NOTE: Agencies will have to provide additional DRL for extra service worked on all days which have been or will be paid within the 2011–12 and 2012–13 SFYs. The biweekly DRL value for SFY 2011–12 that should be used is 1.44 hours per pay period for 75 hour per pay period employees and 1.54 hours per pay period for 80 hour per pay period employees.

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for hourly employees.

Voluntary Reduction in Work Schedule (VRWS) Employees

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees on VRWS.

Per Diem Employees

Per diem employees are subject to the DRP and therefore are entitled to DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

If an employee wishes to use any or all DRL credits, such credits must be used prior to the end of the 2012–2013 SFY. DRL credits may not be carried over beyond March 31, 2013. The vacation credit balance of an employee may not exceed 45 days on October 1, 2012.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit all unused DRL credits. There is no lump sum payment for unused days of DRL.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the BU-21 DRP for any reason during the DRP period, and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing either the employee's compensation or the employee's vacation and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who leave State employment or are no longer subject to the BU-21 DRP.

Movement to a Different Bargaining Unit

Agencies might have to adjust the DRL credited to an employee who leaves BU-21 for a position in another bargaining unit. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees moving from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP.

NOTE: Earned and unused DRL retained by an employee who leaves BU-21 prior to March 31, 2013 will expire on March 31, 2013.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL; however, such leave will expire on March 31, 2013.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL; however, such leave will expire on March 31, 2013.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with the applicable amount of DRL based on the employee's date of hire, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Workers' Compensation Leave at the start of or during the DRP.

Military Leave

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out, or who go out, on Military leave for any part of the DRP.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2016 Agreements between the State of New York and the Civil Service Employees Association (CSEA) for employees in the Administrative Services Unit (ASU), Institutional Services Unit (ISU), Operational Services Unit (OSU), and Division of Military and Naval Affairs (DMNA) Unit as they relate to the Deficit Reduction Plan (DRP). All employees in these bargaining units are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP for Fiscal Year 2012–2013 for these units reduces employee compensation by 1.538% for each payroll period starting with payroll number 25 for employees on the Institution Lag payroll calendar (paid on April 5, 2012), and with payroll number 26 for employees on the Administration Lag payroll calendar (paid on April 11, 2012) and will last 26 biweekly pay periods. Deficit Reduction Leave (DRL) will be available for employee use on April 1, 2012 for employees on both the Institution Lag payroll calendar and the Administration Lag payroll calendar. The DRP for Fiscal Year 2012–2013 provides for:

- Four days of DRL in Fiscal Year 2012–2013 for full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL for Fiscal Year 2012–2013.
- The State will ensure that each employee who requests to do so will be able to use their entire allotment of DRL. Days off are at employee election but are subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees who are represented by CSEA will be subject to this DRP regardless of coverage under the Attendance Rules, except for those CSEA-represented employees who have an hourly rate of less than $7.36 in the 2012–13 SFY.

Earning Deficit Reduction Leave (DRL)

Full-time Annual-Salaried Employees
Full-time annual-salaried employees are credited with four days of DRL, based on their basic workweek of either 37.5 or 40 hours on April 1, 2012 and allowed to begin charging DRL on that date, subject to supervisory approval. For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 30 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 32 hours of DRL.

Part-Time Annual-Salaried Employees
Part-time annual-salaried employees are credited with four prorated days of DRL, based on their employment percentage on April 1, 2012.

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 37.5 hours in a biweekly pay period will be credited with 15 hours of DRL at the start of the program. A part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 16 hours of DRL.

As stated earlier, employees on the payroll on April 1, 2012 are credited on that date with their full allotment of DRL (four days, prorated for part-time employees). Although DRL is not earned on a biweekly basis in the same manner as other leave accruals, it is necessary to compute the precise amount of DRL associated with each pay period covered by the program. As discussed below, these biweekly rates will be used for several purposes, including crediting new employees with the appropriate amount of DRL if they are hired after March 8, 2012 for employees on the Institution Lag payroll and after March 15, 2012 for employees on the Administration Lag payroll.

The table below specifies the DRL hours earned by CSEA-represented employees for the duration of this DRP. The hours earned by an employee depends on the pay periods in the employee's work year and the hours in the employee's biweekly work week.

Pay Basis	Biweekly PP Hours	2012-13 SFY DRL Factor	
		DRL Factor	Duration
26pp	75	1.15 Hrs / Pay Period	26 PP's
26pp	80	1.23 Hrs / Pay Period	26 PP's

Employees entering the CSEA Units after March 8, 2012 for employees on the Institution Lag payroll and March 15, 2012 for employees on the Administration Lag payroll
To determine the amount of DRL to be credited to an employee who becomes subject to the CSEA DRP after the start of the 2012-2013 DRP, the agency should make the following calculation (rounded down to the nearest quarter-hour):

((2012–13 DRL Factor) x (Remaining Pay Periods of 2012–13 SFY Factor Duration) x (Employee's FTE equivalent))

For example, a half-time employee (50% payroll percentage) who is hired 6 weeks (3 pay periods) after the start of the DRP with an 80 hour biweekly pay period would be entitled to DRL credit as follows:

((1.23) x (23) x (.5)) = 14.00 Hours of DRL (rounded down from 14.15)

Extra Time Worked

Both full and part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a work week) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value from the table above (in this case, 1.23 hour per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.615 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 1.75 hours. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 32 hours of DRL on April 1, 2012. If the employee worked 16 hours of extra service in two pay periods during the 2012–13 SFY (20% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (in this case 1.23 hours per pay period) by 0.2 to prorate for a 20% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .25 hours of DRL (rounded down from .49 hours).

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP for SFY 2012-2013. This pro-rated amount should be based on an individual's schedule during the remainder of SFY 2012–2013. For example, an agency that has employed an hourly employee for approximately 20 hours per week (where a 40 workweek is used) and plans on continuing such employee at 20 hours per week for the entire Fiscal Year, should credit such employee with 16

hours of DRL on April 1, 2012. This is based on 26 pay periods of the 2012–13 SFY DRL Factor of .615 hours per pay period (full-time rate prorated for 50% work schedule). If the hourly employee's actual hours of work differ from the estimate, the agency should make adjustments during the Fiscal Year so that the employee is credited with the appropriate amount of DRL. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

Voluntary Reduction in Work Schedule (VRWS) Employees

Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

VRWS credits earned each pay period will not be affected by the DRP.

Per Diem Employees

Per diem employees are also subject to the DRP and therefore are entitled to DRL for the 2012-2013 DRP period. Agencies will need to compare a per diem employee's schedule to that of a full-time schedule and credit a per diem employee with an appropriate pro-rated share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

If an employee wishes to use DRL credits, such credits should be used prior to April 1, 2013. DRL credits may not be carried over beyond March 31, 2013. The vacation credit balance of an employee may not exceed 40 days on April 1, 2013.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit all unused DRL credits.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the CSEA DRP, for any reason during the DRP period and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing the employee's vacation, holiday leave, floating holiday leave, overtime non-compensatory time and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. The offset will be computed based on the following calculation (rounded down to the nearest quarter-hour):

(DRL hours charged) - ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

For example, a full-time employee (1 FTE) (80 hour biweekly work week) who participates in the DRP for 10 pay periods in the 2012–13 SFY leaves State service after charging all 4 DRL days (32 DRL hours) will have other accruals offset based on the following calculation:

(32.00 hours) - ((1.23) x (10) x (1)) = (32.00 hours) - (12.30 hours) = 19.7 hours (rounded down to 19.5 hours) to be offset by charges to other leave accruals

There is no lump sum payment for unused days of DRL.

Movement from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP

Agencies will have to adjust the DRL credited to an employee who leaves a CSEA unit for a position in another bargaining unit not represented by CSEA. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter hour):

((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

Once an agency determines the amount of DRL earned by the employee, the agency may need to offset other leave balances belonging to the employee if the employee charged more DRL than the employee earned (see *"Separations"* section for calculation) prior to leaving a CSEA unit.

For example, a full-time employee (80 hour biweekly work week) who participates in the DRP for 10 pay periods in the 2012–13 SFY changes to another bargaining unit after charging 1 DRL day (8 DRL hours). An agency would make the following calculations: will have other accruals offset based on the following calculation:

DRL earned: ((1.23) x (10) x (1)) = 12.30 hours of earned DRL

DRL Retained / Offset: (12.30 hours of earned DRL) - (8 hours of charged DRL) = 4.30 hours of DRL (rounded down to 4.25 hours) retained by the employee until March 31, 2013.

NOTE: Earned and unused DRL retained by an employee who leaves a CSEA unit prior to March 31, 2013 will expire after March 31, 2013.

Movement From one Bargaining Unit to a different Bargaining Unit also subject to a DRP

Movement between bargaining units subject to a DRP will require an adjustment to the amount of DRP an employee is credited with. Agencies should contact the Attendance and Leave Unit for guidance in adjusting DRL amounts. Employees retain only the amount of DRL that has been earned prior to the movement to a different bargaining unit.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with four days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Annual-salaried employees out of work on one of the various Workers' Compensation Programs, at the start of the 2012-2013 DRP, will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on workers' compensation leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go out of work on one of the various Workers' Compensation Programs, following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

DRL charged during a period of workers' compensation leave for which the State has received a "Credit New York State" issued by the State Insurance Fund for wages paid, will only be restored to an employee if the credit is received prior to the end of the DRP period.

Military Leave

Annual-salaried employees on military leave on April 1, 2012 will be credited with four days of DRL. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on military leave, with unused DRL, will not return to the payroll before April 1, 2013. Similarly, questions regarding excess DRL should be directed to the Attendance & Leave Unit.

Annual-salaried employees who go on military leave following April 1, 2012 will need to have their DRL credit computed as described above based on the applicable biweekly DRL rate. Questions about this should be directed to the Attendance & Leave Unit.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits: Agency Police Services Unit

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2015 Agreement between the State of New York and the Police Benevolent Association of New York State, Inc. (PBANYS) for employees in the Agency Police Services Unit (APSU), formerly known as Agency Law Enforcement Services (ALES) Unit, as they relate to the Deficit Reduction Plan (DRP). All employees who are members of this bargaining unit between January 31, 2012 and March 31, 2013 are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP reduces employee compensation by the equivalent of 1.923% of 26 pay periods of compensation, to be withheld from employees' retroactive checks paid in the 2011-2012 State Fiscal Year (SFY) upon their issuance, and 1.538% for all paychecks which are paid in the 2012–2013 SFY. The 2012–2013 SFY compensation reductions will commence with the paycheck issued April 11, 2012 for employees on the Administration Lag payroll calendar. Deficit Reduction Leave (DRL) will be available for APSU employee use effective January 31, 2012. Specifically:

- Nine days of DRL will be credited to full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL. Employees whose retroactive check paid in the 2011-2012 SFY is insufficient to cover the equivalent of 1.923% of annual compensation reductions will also receive a pro-rata share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to March 31, 2013 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees who are represented by PBANYS will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, PBANYS-represented employees who have an hourly rate of less

than $7.39 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY; employees represented by PBANYS who have an hourly rate of less than $7.36 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

Earning DRL

Full-Time Annual-Salaried Employees

Full-time annual-salaried employees are credited with nine days (72 hours) of DRL upon ratification and allowed to begin charging DRL on that date (January 31, 2012), subject to supervisory approval. However, agencies must verify that an employee's retroactive check will be reduced by the full value of 1.923% of 26 pay periods of compensation. If an employee's check will not be reduced by that amount, such employee shall be credited with the portion of the five (5) DRL days that are equivalent to the reduction in the retroactive check. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for these employees. Such employee shall receive a full credit of the additional four (4) days of DRL.

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with nine prorated days of DRL, based on their employment percentage on the date the contract is ratified (January 31, 2012).

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL at the start of the program.

As stated earlier, employees on the payroll on the date of ratification are credited on that date with their full allotment of DRL (nine days, prorated for part-time employees and for those whose retroactive check does not fully cover the value of the five (5) days). Although DRL is not earned on a biweekly basis in the same manner as other leave accruals, it is necessary to compute the precise amount of DRL associated with each pay period covered by the program in the 2012-2013 State Fiscal Year. As discussed below, these biweekly rates will be used for several purposes, including crediting new employees with the appropriate amount of DRL if they are hired after March 15, 2012.

The table below specifies the DRL hours earned by PBANYS-represented employees for the DRP. The hours earned by an employee depends on the pay periods in the employee's work year; the hours in the employee's biweekly work week, and the SFY in question.

Pay Basis	Biweekly PP Hours	2011-12 SFY DRL		2012-13 SFY DRL Factor	
		DRL Factor	Duration	DRL Factor	Duration
26PP	80	5 Days (prorated based on employee's payroll percentage)	4 PP's	1.23 Hrs / Pay Period	26 PP's

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees hired just before January 31, 2012.

Employees entering the APSU on or after January 31, 2012

For employees who become members of the APSU between January 31, 2012 and March 31, 2012, agencies must contact the Attendance and Leave unit to determine the proper pro-rated amount of the five (5) days of DRL that an employee is to be credited with. In addition to this pro-rated amount, an employee is entitled to an immediate credit of four (4) days of DRL on the date of hire.

For employees hired on or after March 15, 2012, to determine the amount of DRL to be credited to such employee, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

((1.23) x (Remaining Pay Periods within the 2012–13 SFY Factor Duration) x (Employee's FTE equivalent))

Extra Time Worked

Part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a biweekly period) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value (1.23 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.615 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 1.75 hours. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

NOTE: Only for purposes of crediting extra time worked and extra service between January 31, 2012 and March 14, 2012, the biweekly DRL value shall be 1.54 hours per pay period. There shall be no crediting of additional DRL for extra time worked or extra service performed before January 31, 2012.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 72 hours of DRL upon ratification. If the employee worked 20 hours of extra service for two pay periods during the 2012–13 SFY (25% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (1.23 hours per pay period) by 0.25 to prorate for a 25% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-

hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .615 hours).

NOTE: Only for purposes of crediting extra time worked and extra service between January 31, 2012 and March 14, 2012, the biweekly DRL value shall be 1.54 hours per pay period. There shall be no crediting of additional DRL for extra time worked or extra service performed before January 31, 2012.

Annual-Salaried Employee Changes in Employment Percentage
Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees
Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for hourly employees.

Voluntary Reduction in Work Schedule (VRWS) Employees
Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

VRWS credits earned each pay period will not be affected by the DRP.

Per Diem Employees
Per diem employees are subject to the DRP and therefore are entitled to DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

All DRL credits must be used prior to the end of the 2012–2013 SFY. DRL credits may not be carried over beyond March 31, 2013. The vacation credit balance of an employee may not exceed 45 days on October 1, 2012.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit all unused DRL credits.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the APSU DRP, for any reason during the DRP period and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing the employee's vacation and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. The offset will be computed based on the following calculation (rounded down to the nearest quarter-hour).

(Charged DRL) - (5 days (prorated if necessary)) + ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage)) = Amount to be reduced from other leave accruals

There is no lump sum payment for unused days of DRL.

Movement from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP

Agencies will have to adjust the DRL credited to an employee who leaves the APSU for a position in another bargaining unit. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter-hour):

(5 days (prorated if necessary)) + ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

Once an agency determines the amount of DRL earned by the employee, the agency may need to offset other leave balances belonging to the employee if the employee charged more DRL than the employee earned (see *"Separations"* section for calculation) prior to leaving the APSU. Agencies may need to modify the above calculation for additional DRL earned for extra time worked and extra service.

NOTE: Earned and unused DRL retained by an employee who leaves the APSU prior to March 31, 2013 will expire on March 31, 2013.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL; however, such leave will expire on March 31, 2013.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL; however, such leave will expire on March 31, 2013.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with nine days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Workers' Compensation Leave at the start of or during the DRP.

Military Leave

Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for employees who are out or go out on Military leave at the start of or during the DRP.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.

To: Manual Recipients
From: Blaine Ryan-Lynch, Director of Staffing Services
Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2012

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Agency Law Enforcement Services, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2012. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2015 Agreement between the State of New York and the Public Employees Federation (PEF) for employees in the Professional, Scientific and Technical Services (PS&T) Unit as they relate to the Deficit Reduction Plan (DRP). All employees in this bargaining unit are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP reduces employee compensation by 4.198% for the last ten pay periods which are paid in the 2011–2012 State Fiscal Year (SFY) (3.381% for employees paid on a 21 pay period (pp) basis) and 1.847% for all paychecks which are paid in the 2012–2013 SFY. The 2011–12 SFY compensation reductions will commence with the paycheck issued November 17, 2011 for employees on the Institution Lag payroll calendar and with the paycheck issued November 23, 2011 for employees on the Administration Lag payroll calendar. Deficit Reduction Leave (DRL) will be available for PS&T Unit employee use on November 4, 2011 regardless of which payroll calendar covers the employee. Specifically:

- Nine days of DRL will be credited to full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to March 31, 2013 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees who are represented by PEF will be subject to this DRP regardless of coverage under the Attendance Rules. Except that, PEF-represented employees who have an hourly rate of less than $7.57 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY; employees in the PS&T Unit who have an hourly rate of less than $7.39 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

Earning Deficit Reduction Leave (DRL)

Full-time Annual-Salaried Employees

Full-time annual-salaried employees are credited with nine days of DRL, based on their basic workweek of either 37.5 or 40 hours on November 4, 2011 and allowed to begin charging DRL on that date, subject to supervisory approval. For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 67.5 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 72 hours of DRL.

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with nine prorated days of DRL, based on their employment percentage on November 4, 2011.

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 37.5 hours in a biweekly pay period will be credited with 33.75 hours of DRL at the start of the program. A part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL.

As stated earlier, employees on the payroll on November 4, 2011 are credited on that date with their full allotment of DRL (nine days, prorated for part-time employees). Although DRL is not earned on a biweekly basis in the same manner as other leave accruals, it is necessary to compute the precise amount of DRL associated with each pay period covered by the program. As discussed below, these biweekly rates will be used for several purposes, including crediting new employees with the appropriate amount of DRL if they are hired after November 4, 2011.

The table below specifies the DRL hours earned by PEF-represented employees for the duration of this DRP. The hours earned by an employee depends on the pay periods in the employee's work year; the hours in the employee's biweekly work week, and the SFY in question.

Pay Basis	Biweekly PP Hours	2011-12 SFY DRL Factor		2012-13 SFY DRL Factor	
		DRL Factor	Duration	DRL Factor	Duration
26pp	75	3.15 Hrs / Pay Period	10 PP's	1.39 Hrs / Pay Period	26 PP's
26pp	80	3.36 Hrs / Pay Period	10 PP's	1.48 Hrs / Pay Period	26 PP's
21pp	75	3.15 Hrs / Pay Period	10 PP's	1.72 Hrs / Pay Period	21 PP's
21pp	80	3.36 Hrs / Pay Period	10 PP's	1.83 Hrs / Pay Period	21 PP's

Employees entering the PS&T Unit after November 4, 2011

To determine the amount of DRL to be credited to an employee who becomes subject to the PEF DRP after the start of the PEF DRP, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

((2011–12 DRL Factor) x (Remaining Pay Periods of 2011–12 SFY Factor Duration) x (Employee's payroll percentage)) + ((2012–13 DRL Factor) x (Remaining Pay Periods of 2012–13 SFY Factor Duration) x (Employee's FTE equivalent))

For example, a half-time employee (50% payroll percentage) who is hired 6 weeks (3 pay periods) after the start of the DRP with a 26 pay period work year and 80 hour biweekly pay period would be entitled to DRL credit as follows:

((3.36) x (7) x (.5)) + ((1.48) x (26) x (.5)) = 31.00 Hours of DRL (3.88 Days)

Extra Time Worked

Both full and part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a work week) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value from the table above (in this case, 1.48 hour per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.74 hour) by the number of pay periods (three) and round the product down to the nearest quarter-hour, yielding an additional DRL credit of 2.25 hours. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) with 26 pay periods in a work year would be credited with 72 hours of DRL on November 4, 2011. If the employee worked 16 hours of extra service in two pay periods during the 2012–13 SFY (20% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (in this case 1.48 hours per pay period) by 0.2 to prorate for a 20% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .59 hours).

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP. This pro-rated amount should be based on an individual's schedule during the remainder of SFY 2011–2012 and an agency's schedule for such employee for SFY 2012–2013. For example, an agency that has employed an hourly employee for approximately 20 hours per week (where

a 40 workweek is used) in a 26 pay period work year during SFY 2011–12 and plans on continuing such employee at 20 hours per week, should credit such employee with 36 hours of DRL on November 4, 2011. This is based on 10 pay periods of the 2011–12 SFY DRL Factor of 1.68 hours per pay period (full-time rate prorated for 50% work schedule) plus 26 pay periods of the 2012–13 SFY DRL Factor at a rate of (0.74 hour per pay period (full-time rate prorated for work schedule), rounded down to the nearest quarter-hour. If the hourly employee's actual hours of work differ from the estimate, the agency should make adjustments during the Fiscal Year so that the employee is credited with the appropriate amount of DRL. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

Voluntary Reduction in Work Schedule (VRWS) Employees

Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

VRWS credits earned each pay period will not be affected by the DRP.

Per Diem Employees

Per diem employees are also subject to the DRP and therefore are entitled to DRL once the DRP begins. Agencies will need to compare a per diem employee's schedule to that of a full-time schedule and credit a per diem employee with an appropriate pro-rated share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

All DRL credits must be used prior to the end of the 2012–2013 SFY. DRL credits may not be carried over beyond March 31, 2013. For the **2011–12 SFY only**, the vacation credit balance of an employee may not exceed 45 days on April 1, 2012.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit all unused DRL credits.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the PEF DRP, for any reason during the DRP period and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing the employee's vacation, holiday leave, floating holiday leave, overtime non-compensatory time and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. The offset will be computed based on the following calculation (rounded down to the nearest quarter-hour):

(DRL hours charged) - ((2011–12 DRL Factor) x (Pay Periods of 2011–12 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage)) + ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

For example, a full-time employee (1 FTE) (26 pay period work year, 80 hour biweekly work week) who participates in the DRP for 10 pay periods in the 2011–12 SFY and 5 pay periods in the 2012–13 SFY leaves State service after charging all 9 DRL days (72 DRL hours) will have other accruals offset based on the following calculation:

(72.00 hours) - ((3.36) x (10) x (1)) + ((1.48) x (5) x (1)) = (72.00 hours) - (41.00 hours) = 31.00 hours (3.44 days) to be offset by charges to other leave accruals

There is no lump sum payment for unused days of DRL.

Movement from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP

Agencies will have to adjust the DRL credited to an employee who leaves the PS&T unit for a position in another bargaining unit. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter hour):

((2011–12 DRL Factor) x (Pay Periods of 2011–12 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage)) + ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

Once an agency determines the amount of DRL earned by the employee, the agency may need to offset other leave balances belonging to the employee if the employee charged more DRL than the employee earned (see *"Separations"* section for calculation) prior to leaving the PS&T unit.

For example, a full-time employee (26 pay period work year, 80 hour biweekly work week) who participates in the DRP for 10 pay periods in the 2011–12 SFY and 5 pay periods in the 2012–13 SFY changes to another bargaining unit after charging 4 DRL days (32 DRL hours). An agency would make the following calculations: will have other accruals offset based on the following calculation:

DRL earned: ((3.36) x (10) x (1)) + ((1.48) x (5) x (1)) = 41.00 hours of earned DRL

DRL Retained / Offset: (41 hours of earned DRL) - (32 hours of charged DRL) = 9 hours of DRL retained by the employee in the employee's new unit until March 31, 2013.

NOTE: Earned and unused DRL retained by an employee who leaves the PS&T unit prior to March 31, 2013 will expire on March 31, 2013.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with nine days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Annual-salaried employees out of work on one of the various Workers' Compensation Programs, at the start of the DRP, will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on workers' compensation leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go out of work on one of the various Workers' Compensation Programs, following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

DRL charged during a period of workers' compensation leave for which the State has received a "Credit New York State" issued by the State Insurance Fund for wages paid, will only be restored to an employee if the credit is received prior to the end of the DRP period.

Military Leave

Annual-salaried employees on military leave on November 4, 2011 will be credited with 9 days of DRL. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on military leave, with unused DRL, will not return to the payroll before March 31, 2013. Similarly, questions regarding excess DRL should be directed to the Attendance & Leave Unit.

Annual-salaried employees who go on military leave following November 4, 2011 will need to have their DRL credit computed as described above based on the applicable biweekly DRL rate. Questions about this should be directed to the Attendance & Leave Unit.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in the 2011–2016 Agreements between the State of New York and the Civil Service Employees Association (CSEA) for employees in the Administrative Services Unit (ASU), Institutional Services Unit (ISU), Operational Services Unit (OSU), and Division of Military and Naval Affairs (DMNA) Unit as they relate to the Deficit Reduction Plan (DRP). All employees in these bargaining units are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP for Fiscal Year 2011–2012 for these units reduces employee compensation by 3.333% for each payroll period starting with payroll number 10 for employees on the Institution Lag payroll calendar (paid on September 8, 2011), and with payroll number 11 for employees on the Administration Lag payroll calendar (paid on September 14, 2011) and will last 15 biweekly pay periods. Deficit Reduction Leave (DRL) will be available for employee use on September 8, 2011 for employees on the Institution Lag payroll calendar and September 15, 2011 for employees on the Administration Lag payroll calendar. The DRP for Fiscal Year 2011–2012 provides for:

- Five days of DRL in Fiscal Year 2011–2012 for full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL for Fiscal Year 2011–2012.
- The State will ensure that each employee will be able to use their entire allotment of DRL. Days off are at employee election but are subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, negotiated agreements, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All employees represented by CSEA for employees in the ASU, ISU, OSU, and DMNA Units will be subject to the DRP regardless of coverage under the Attendance Rules.

Earning Deficit Reduction Leave (DRL)

Full-time Annual-Salaried Employees

Full-time annual-salaried employees are credited with five days of DRL, based on their basic workweek of either 37.5 or 40 hours at the start of the DRP. Employees will be entitled to take DRL commencing on September 8, 2011 for employees on the Institution Lag payroll calendar and commencing on September 15, 2011 for employees on the Administration Lag payroll calendar.

For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 37.5 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 40 hours of DRL.

Part-Time Annual-Salaried Employees

Part-time annual-salaried employees are credited with five prorated days of DRL, based on their employment percentage at the start of the DRP.

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 37.5 hours in a biweekly pay period will be credited with 18.75 hours of DRL at the start of the program. A part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 20 hours of DRL.

Part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a biweekly pay period) to work full-time during three biweekly pay periods. This employee would have already been credited with 20 hours of DRL. To determine the additional DRL that needs to be credited, an agency would divide the original DRL credit (20) by 15 (total number of pay periods in the DRP) to arrive at 1.333 hours per pay period. For purposes of this calculation only, this individual is seen as earning 1.333 hours of DRL per pay period. Since this individual worked double their normal schedule for three pay periods, you would multiply 1.333 by 3 to arrive at a total of 4 hours of additional DRL credit. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL during the Fiscal Year so that they have an opportunity to use the DRL during this Fiscal Year.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) would be credited with 40 hours of DRL. To determine the additional DRL that needs to be credited for extra service, an agency would divide the original DRL credit (40) by 15 (total number of pay periods in the DRP) to arrive at 2.666 hours per pay period. If the employee worked 8 hours of extra service in one pay period (1/10 of additional time), the

employee would be credited with 2.666/10, or .266 hours of additional DRL. When crediting DRL, in such instances, agencies should round down to the nearest ¼ hour.

New Employees

Employees who join the bargaining unit after the commencement of the DRP shall be credited with the appropriate proportionate amount of DRL that corresponds to the number of pay periods left in the DRP for Fiscal Year 2011–2012. For example, a full-time 40 hour per workweek employee who is hired with only 12 pay periods remaining in the fiscal year, shall be credited with 32 hours (12/15 equals 80%) of DRL for use in Fiscal Year 2011–2012, because reductions in compensation will occur over only 12 pay periods under the DRP. Such leave shall be credited as soon as practicable.

Annual-Salaried Employee Changes In Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP. This pro-rated amount should be based on an individual's schedule during the first five months of Fiscal Year 2011–2012 and an agency's schedule for such employee for the rest of the Fiscal Year. For example, an agency who employed an hourly employee for approximately 20 hours per week (where a 40 workweek is used) during the first five months of State Fiscal Year 2011–12 and plans on continuing such employee at 20 hours per week, should credit such employee with 20 hours of DRL at the beginning of the DRP. If the hourly employee's actual hours of work differ from the estimate, the agency should make adjustments during the Fiscal Year so that the employee is credited with the appropriate amount of DRL. When crediting DRL, in such instances, agencies should round down to the nearest ¼ hour.

Voluntary Reduction in Work Schedule (VRWS) Employees

Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest ¼ hour.

VRWS credits earned each pay period will not be affected by the DRP.

Per Diem Employees

Per diem employees are also subject to the DRP and therefore are entitled to DRL once the DRP begins. Agencies will need to compare a per diem employee's schedule to that of a full-time schedule and credit a per diem employee with an appropriate pro-rated share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

All DRL credits must be used prior to the end of the Fiscal Year 2011–2012 in which they were credited. DRL credits may not be carried over. For the Fiscal Year **2011–12 only**, the vacation credit balance of an employee may not exceed 45 days on April 1, 2012.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in 1/4 hour units.

DRL credits may not be used to cover unscheduled absences such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from service for any reason during the DRP period will forfeit all unused DRL credits.

For employees that are separated from service for any reason during the DRP period who have used DRL credits for which the state has not been able to reduce compensation under the DRP, the State will recoup any monies unable to be reduced by deductions from the employee's cash-out of vacation accruals, or deductions to the employee's deferral cash-out. To the extent that vacation accruals and the deferral cash-out are insufficient to fund the value of the DRL used, the State may utilize any other legal remedies available to recoup the value of the DRL used.

There is no lump sum payment for unused days of DRL.

Movement from a bargaining unit subject to the DRP to a bargaining unit not subject to the DRP

Agencies will have to adjust the DRL credited to an employee who separates from one of the CSEA units for a position in another unit that is not subject to the DRP. The employee's adjusted DRL will be proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP. Such employee shall be permitted to retain any unused DRL and use such DRL while in a different bargaining unit subject to the rules and restrictions for employees in the new unit. All DRL credits must be used prior to the end of the Fiscal Year in which they were credited.

Promotion or Reassignment Within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL.

Movement From one Agency to Another or Between Facilities or Institutions Within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL.

Movement Under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Overtime

Time charged to DRL counts as time worked for purposes of determining entitlement to overtime.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with five days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest 1/4 hour.

Income Protection Plan

Employees on Short Term Disability (STD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees on Long Term Disability (LTD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees who go on STD/LTD after the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

When crediting DRL, in these instances, agencies should round down to the nearest 1/4 hour.

Workers' Compensation Benefits

Annual-salaried employees out of work on one of the various Workers' Compensation Programs, at the start of the DRP, will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on workers' compensation leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go out of work on one of the various Workers' Compensation Programs, following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

DRL charged during a period of workers' compensation leave for which the State has received a "Credit New York State" issued by the State Insurance Fund for wages paid, will only be restored to an employee if the credit is received prior to the end of the DRP period to which those credits correspond.

Military Leave

Annual-salaried employees on military leave at the start of the DRP will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on military leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on military leave following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

When crediting DRL, in these instances, agencies should round down to the nearest 1/4 hour.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Disciplinary Suspension

Employees eligible to charge accruals during a period of disciplinary suspension may charge DRL to cover this period.

DRL credits charged for this purpose will only be restored to the employee following an arbitrator's decision in the employee's favor and only if the decision is rendered prior to the end of the DRP period to which those credits correspond.

Questions concerning this Program should be directed to the Attendance and Leave Unit of this Department at 518-457-2295.

To: Manual Recipients

From: Blaine Ryan-Lynch
Director of Staffing Services

Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2011

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Agency Law Enforcement Services, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2011. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th

Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th
Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Changes to Guidelines Regarding the Rights of Nursing Mothers to Express Breast Milk in the Work Place

The guidelines issued by the New York State Department of Labor regarding Section 206-c of the Labor Law on rights of nursing mothers to express breast milk in the workplace have been revised.

This memorandum is a result of discussions with the Governor's Office of Employee Relations and provides guidance on the changes to those guidelines. The information contained in this document summarizes our understanding of the changes to the guidelines and should be read in conjunction with Policy Bulletin 2008-01 (PB 08-01). The two significant changes are in bold and discussed below.

Using Unpaid Break Time (page 2 of PB 08-01)

Upon election of the employee, an employer shall allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break time(s) for the expression of breast milk so long as such additional time requested falls within the employer's normal work hours.

However, regular unpaid meal periods used for the purpose of expressing breast milk cannot be made up, by working additional time, since they are not part of the employee's normal work day.

An employee who elects to make up time should be deemed to be on an individualized work schedule as described in Section 20.1 of the Attendance and Leave Manual. The schedule adjustment should not be used to shorten an unpaid meal period.

Location to Express Breast Milk (page 3 of PB 08-01)

The room or location provided by the employer for this purpose cannot be a restroom or toilet stall.

Role of Agency Section 206-c Coordinator (page 5 of PB 08-01)

Agencies are reminded that when contacted by a nursing mother regarding this benefit, the Section 206-c Coordinator is expected to collect pertinent information concerning the employee's request, consult with the Attendance and Leave Unit of this Department regarding each individual case and work with the agency and the employee to identify the best options for scheduling time and designating a location for expressing breast milk.

Agencies should also note that the recently enacted Federal Patient Protection and Affordability Care Act (Public Law No. 111-148) amended certain provisions in the Fair Labor Standards Act regarding expressing breast milk in the work place. NYS Labor Law 206-c is consistent with the Federal law and provides the same or more generous provisions for nursing mothers.

A link to the Department of Labor's guidelines pertaining to Labor Law 206-c is provided below:

http://www.labor.ny.gov/workerprotection/laborstandards/pdfs/guidelinesexpressionofbreastmilkfinal.pdf

Agencies with questions should contact the Attendance and Leave Unit of this Department at 518-457-2295**.**

To: Manual Recipients

From: Blaine Ryan-Lynch
Director of Staffing Services

Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits through December 31, 2010

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Agency Law Enforcement Services, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2010. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th

Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th
Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

To: Manual Recipients

From: Blaine Ryan-Lynch
Director of Staffing Services

Subject: Memoranda of Understanding on Extension of Special Military Benefits and Post-Discharge Benefits

The Governor's Office of Employee Relations has signed Memoranda of Understanding with the Civil Service Employees Association, Council 82, District Council 37, NYS Correctional Officers and Police Benevolent Association, Graduate Students Employee Union, Public Employees Federation, and United University Professions, extending current special military benefits for service in connection with the war on terror, and certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration through December 31, 2009. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th

Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th
Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Holders
FROM: Terry Jordan, Director of Staffing Services
SUBJECT: Extension of Military Leave Benefits Related to the War on Terror through December 31, 2008

The Attendance Rules for Employees in New York State Departments and Institutions are being amended to extend through December 31, 2008 the special military leave benefits (Supplemental Military Leave at full pay, Military Leave at Reduced Pay, Training Leave at Reduced Pay, and Post-Discharge Benefits) granted in connection with the war on terror for both non-managerial/confidential and managerial/confidential employees. Previously these benefits were due to expire on December 31, 2007. These amendments are consistent with signed Memoranda of Understanding between the State and CSEA, Council 82, DC-37, NYSCOPBA, PEF, and UUP.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
General Information Bulletin 2001-04	September 2001	Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2001-06	September 2001	Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th
Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2007-01	January 2007	Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

Questions about the special military leave benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients
FROM: Terry Jordan, Director of Staffing Services
SUBJECT: Expressing Breast Milk in the Work Place
DATE: January 2008

The Labor Law has been amended to add a new Section 206-c regarding the right of nursing mothers to express breast milk in the work place. This memorandum is a result of discussions with the Governor's Office of Employee Relations and provides guidance on the application of this new provision to classified service employees in the Executive branch. Labor Law Section 206-c provides as follows:

> "206-c. Right of nursing mothers to express breast milk. An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following child birth. The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place.
>
> 2. This act shall take effect immediately."

This legislation became effective August 15, 2007. It permits nursing mothers to express breast milk in the work place, but does not authorize breast feeding of the child at the work site. Furthermore, this benefit may only be used by eligible employees for up to three years following the birth of a child.

Time to Express Breast Milk

With respect to time during the workday to express breast milk, the legislation provides:

> "An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following child birth."

Based on the above language, an agency is required to allow a nursing mother who wishes to express breast milk to use:

- Reasonable unpaid break time;
- Meal time, and/or;

- Paid break time currently provided by the employer.

Using Existing Meal Periods and Paid Rest Breaks

Agencies are required to permit nursing mothers to express breast milk during their meal period and/or paid rest breaks if the employee elects to utilize meal periods and/or paid rest breaks for this purpose. However, an employee cannot be required to use meal periods and/or paid rest breaks for this purpose and may elect to express breast milk at other reasonable times during the work shift.

The legislation does not authorize the granting of additional paid break time beyond that already provided by the employer. Accordingly, if an agency does not provide paid rest breaks now, there is no obligation to create paid rest breaks solely to permit an employee to express breast milk.

Using Unpaid Break Time

Employees may elect to use the unpaid break time authorized by Section 206-c instead of or in combination with meal periods and/or paid rest breaks. Consistent with State policy on use of leave credits, employees must be permitted to charge appropriate leave credits (credits other than sick leave) during the unpaid breaks authorized by Section 206-c.

While the statutory benefit is available to employees within their basic workweek as well as during any additional time worked, including overtime shifts, employees are not permitted to charge leave credits outside their basic workweek. Use of unpaid break time outside the basic workweek does not impact eligibility to earn biweekly leave credits.

Eligibility to Earn Leave Credits under the Attendance Rules

It is critical that agencies advise employees who use unpaid break time authorized by Section 206-c and do not charge credits during such unpaid break time, that they may be ineligible to earn biweekly leave credits.

Because many employees returning from child care leave may have low leave balances, agencies need to ensure that employees understand the impact on eligibility to earn leave credits if they elect to utilize unpaid break time and not charge leave credits.

The Attendance Rules require an employee to be in full pay status for seven separate full days out of ten in a biweekly pay period in order to earn biweekly leave credits (or a proportionate number of days for employees scheduled to work fewer than ten days in a biweekly pay period). A day on which an employee takes an unpaid break for this purpose, and doesn't charge leave credits during that break, does not count as a day in full pay status for purposes of earning leave credits. For example, an employee scheduled to work ten days in a biweekly pay period who takes unpaid breaks (not charged to credits) for this purpose on more than three days in the biweekly pay period, has not been in full pay status for seven full days out of ten and consequently does not earn her

biweekly vacation and sick leave credits for that biweekly pay period. In contrast, an employee who charges leave credits during the unpaid break time authorized by Section 206-c is in full pay status during such breaks.

Location to Express Breast Milk

With respect to a location to express breast milk, Section 206-c provides:

> "The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy."

In accordance with this legislation, agencies must make "reasonable efforts" to identify a location that is both private and in close proximity to employee's work area. This may necessitate a balancing of the need for privacy and the proximity of the location to the work area. In some work environments it may be necessary for the designated location to be farther from the work area in order to ensure privacy.

Possible locations might include an office or conference room where steps can be taken to ensure that the employee can express milk in privacy. In many work locations, space is at a premium and is utilized for multiple purposes. In such cases scheduling a nursing mother's access to a particular location may be necessary in order to comply with both the legislation and agency work space needs.

Guidelines for Administering the Benefit

Agencies should apply the following guidelines when administering this benefit:

- Employees are required to make advance arrangements to utilize this benefit. Optimally, consultation with the agency would occur prior to a nursing mother's return to work from child care leave**.**

- Employees are not entitled to absent themselves from their work stations for this purpose without prior approval. Prior approval is normally obtained at the time the initial arrangements are made and a schedule is agreed upon. When an employee needs to change a previously agreed upon schedule, the employee must obtain approval to do so. In work settings where coverage is an issue, employers are obligated to arrange coverage and employees are expected to verify that the coverage is in place prior to leaving their work stations to express milk.

- Employees can be required to postpone a scheduled time to express milk for a brief period of time if they cannot be spared. For example, an employee attending a meeting that ends a half hour beyond the scheduled time or an employee in a patient care setting waiting 15 minutes

for the staff member who will provide coverage for her to arrive would be expected to postpone the scheduled time to express milk.

- Time required to express breast milk includes the time required for the nursing mother to reach and return from the location identified by the agency for expressing milk.

- The amount of time needed to express breast milk may vary and there is no set limit on the number of breaks provided per day. They must, however, be reasonable and approved by the employer.

- The benefit is available to employees within their basic workweek as well as during any additional time worked, including overtime shifts.

- Management cannot use the difficulty in arranging time or location as a means of denying employees access to this statutory benefit.

Prohibition on Discrimination

The legislation specifically prohibits discrimination and provides as follows:

> "No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place."

Employee Requests

An employee who wishes to avail herself of this benefit is expected to give her agency reasonable notice so that a schedule can be arranged and a location identified. Normally, this consultation will take place prior to a nursing mother's return to work from child care leave. It is also expected that an employee will provide her agency notice when time for expressing breast milk is no longer required. In no event is the benefit available beyond three years from the date of birth of the child.

Agencies should already have sufficient documentation in connection with an employee's leave request for childbirth or child care to establish eligibility for this benefit. If there are circumstances which cause an agency to question the need for additional documentation, the agency should consult with the Attendance and Leave Unit of this Department.

Implementation and Designation of Section 206-c Coordinator

The Department of Civil Service is asking each agency or facility to designate a Section 206-c Coordinator. This Coordinator will consult with the Attendance and Leave Unit of this Department when arranging this benefit for nursing mothers.

Designate a Section 206-c Coordinator

Each agency or facility should designate an employee to serve as the Section 206-c Coordinator. Designation of such Coordinator will allow consistent and coordinated implementation of the policy and ensure the privacy of employees who wish to avail themselves of this benefit. The person designated to be the Coordinator should be a staff member from Human Resources or Administration who is familiar with privacy issues and can work effectively with nursing mothers and agency management to develop appropriate arrangements. All requests for this benefit will be handled by the agency or facility Section 206-c Coordinator.

Role of Agency Section 206-c Coordinator

When contacted by a nursing mother regarding this benefit, the Section 206-c Coordinator is expected to collect pertinent information concerning the employee's request, consult with the Attendance and Leave Unit of this Department regarding each individual case and work with the agency and the employee to identify the best options for scheduling time and designating a location for expressing breast milk.

The name of the Section 206-c Coordinator should be shared with employees so they know who to contact if they are interested in utilizing this benefit.

Complete Form

Please provide the name and contact information for the designated agency or facility Section 206-c Coordinator to the Attendance and Leave Unit on the attached form. This contact information will enable us to share any additional guidance regarding this policy with Section 206-c Coordinators as it becomes available.

Please complete and submit this form by February 25, 2008.

Questions concerning this benefit should be directed to the Attendance and Leave Unit of this Department at 518-457-2295.

Attachment

ELIOT SPITZER
GOVERNOR

STATE OF NEW YORK
DEPARTMENT OF CIVIL SERVICE
ALFRED E. SMITH STATE OFFICE BUILDING
ALBANY, NEW YORK 12239
www.cs.state.ny.us

NANCY G. GROENWEGEN
COMMISSIONER

Designation of Agency Coordinator for NYS Labor Law Section 206-c

Labor Law Section 206-c creates certain entitlements for nursing mothers to express breast milk in the work place as described in Attendance and Leave Manual Policy Bulletin 2008-01, Expressing Breast Milk in the Work Place, dated January 2008. Agencies should designate a staff member to serve as the Agency Coordinator for NYS Labor Law Section 206-c. In accordance with Policy Bulletin 2008-01, the person designated to be the Coordinator should be a staff member from Human Resources or Administration who is familiar with privacy issues and can work effectively with nursing mothers and agency management to develop appropriate arrangements. The Coordinator is expected to consult with the Attendance and Leave Unit of the Department of Civil Service regarding each case and work with the agency and employee to identify the best options for scheduling time and designating a location for expressing breast milk.

Contact Information for Agency Coordinator for NYS Labor Law Section 206-c

PLEASE PRINT INFORMATION
Please provide all requested information, including area code

Name: _____ Title: _____

Agency/Facility: _____

Address: _____

Phone: (___) _____

Fax Number: (___) _____

Email: _____

RETURN FORM BY FEBRUARY 25, 2008 TO

NYS Department of Civil Service
Attendance and Leave Unit
Room 312
Alfred E. Smith State Office Building
Albany, NY 12239
(518) 457-2295 Phone
(518) 473-6369 Fax

Agency Coordinators should retain a copy of this form for agency records
January 2008

TO: Manual Holders
FROM: Terry Jordan, Director of Staffing Services
SUBJECT: Leave for Prostate Cancer Screening

Legislation enacted in July 2004 (Chapter 237, Laws of 2004) amended the Civil Service Law to entitle employees to take up to four hours of paid leave annually for screening for prostate cancer. This provision took effect on October 25, 2004. A copy of this legislation is attached.

Specifically, a new section 159-c was added to the Civil Service Law to entitle State officers and employees to paid leave without charge to leave credits for prostate cancer screening. Employees are not required to have Attendance Rules coverage to be granted this leave with pay.

The benefit became available to employees on October 25, 2004 for the remainder of the 2004 calendar year. Beginning January 1, 2005, the benefit became available for the full calendar year. Leave for prostate cancer screening is not cumulative and expires at the close of business on the last day of each calendar year.

Employees who charged leave credits for prostate cancer screening on or after October 25, 2004 are entitled, upon submission of satisfactory documentation that the employee's absence was for purposes of prostate cancer screening, to paid leave for such absence and to have credits used for that purpose restored.

Prostate cancer screening includes physical exams and blood work for the detection of prostate cancer. Travel time is included in this four hour cap. Absence beyond the four hour cap must be charged to leave credits.

Employees are entitled to a leave of absence for prostate cancer screening scheduled during the employees' regular work hours. Employees who undergo screenings outside their regular work schedules do so on their own time. For example, employees are not granted compensatory time off for prostate cancer screenings that occur on pass days or holidays.

The appointing authority may require satisfactory medical documentation that the employee's absence was for the purpose of screening for prostate cancer.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 237 of the Laws of 2004 amended the Civil Service Law effective October 25, 2004 by adding a new section, 159-c, to read as follows:

Excused leave to undertake a screening for prostate cancer.

1. Every public officer or employee of this state shall be entitled to absent himself and shall be deemed to have a leave of absence from his duties or service as such public officer or employee of this state, for a sufficient period of time, not to exceed four hours on an annual basis, to undertake a screening for prostate cancer.

2. The entire period of the leave of absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer or employee of this state is otherwise entitled to.

To: Manual Recipients

From: Terry Jordan
Director of Staffing Services

Subject: Memoranda of Understanding on Extension of Special Military Benefits and New Post-Discharge Benefits

The Governor's Office of Employee Relations has signed Memoranda of Understanding with CSEA, PEF, NYSCOPBA, Council 82, DC-37, and UUP, extending current special military benefits for service in connection with the war on terror through December 31, 2007. The MOUs also provide certain benefits in connection with return from military duty for duty related to the war on terror that exceeds 180 days' duration. The same benefits provided in these MOUs are extended to M/C employees.

Provisions of the MOUs are not grievable.

The existing special military benefits extended under these MOUs are administered in accordance with previously issued memoranda:

GIB 01-04 Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
AM 2001-06 Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001
AM 2002-01 Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th
AM 2002-03 Training Leave at Reduced Pay for Military Duty Not Related to the Events of September 11, 2001 and Extension of Special Military Leave in Connection With the Events of September 11th
AM 2004-01 Clarification of Special Military Leave Benefits
AM 2005-01 Extension of Military Leave Benefits Related to the War on Terror through December 31, 2006

The remainder of this memo describes proper administration of the new provisions on post-discharge benefits.

Questions concerning these benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

Eligibility
Section 243 of the New York State Military Law and the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) entitle reservists and National Guard members, under certain circumstances, to up to 90 calendar days from the date of discharge from active military duty to return to work. Specifically, reservists and National Guard members who have been absent from work to perform ordered military duty for more than 180 consecutive calendar days are entitled to up to 90 calendar days from the date of discharge from active military duty to return to work.

In calculating the 90-day period, agencies should begin counting with the day following the date of discharge from active military duty. Issues of verification of date of discharge should be referred to the Attendance and Leave Unit of this Department.

The new MOUs address returning service members' entitlement to charge appropriate leave credits (credits other than sick leave) and to be granted certain military benefits if ordered to perform military duty during this 90-day post-discharge period.

The new MOUs apply only to the 90-day post-discharge period which commences following discharge from active duty. They do not apply to employees on terminal leave from active military duty who are still under military orders and have not yet been officially discharged from such duty, although they may not actually be performing military duty.

In order to be eligible for the new benefits provided under these MOUs, an employee must:

- Be a reservist or National Guard member;
- Have performed ordered active military duty in connection with the war on terror for more than 180 consecutive calendar days;
- Be discharged from such active duty between January 1, 2007 and December 31, 2007; and
- Not have been separated from service with a disqualifying discharge.

Work Schedule Definition
For purposes of administering the benefits in the new MOUs, the employee's work schedule is the last work schedule the employee had prior to the commencement of the period of qualifying active military duty.

Entitlement to Charge Appropriate Leave Credits During Post-Discharge Period
During the 90-day post-discharge period, eligible employees are entitled, under the new MOUs, to elect to charge appropriate leave credits (credits other than sick leave). Employees who elect to charge leave credits receive salary and earn leave credits as any other employee charging credits.

<u>Retroactivity of Request to Charge Credits</u>

Under USERRA and Section 243, employees may make contact with their agencies at any point during the 90-day post-discharge period. At the point the employee first contacts the agency, the agency must make the employee aware of the option to charge credits. The decision to charge credits may be made at any time during the 90-day post-discharge period but no later than the date of return to work. Employees who elect to charge credits may do so retroactive to the date following the date of discharge from the covered active duty.

Work Schedule
Credits are charged against the employee's work schedule as described above.

Employees Who Elect Not to Charge Credits
Employees who elect not to charge leave credits during the 90-day post-discharge period are treated as employees on military leave without pay. They do not earn biweekly leave credits or observe holidays, including floating holidays. The personal leave anniversary date and IPP grant dates change to date of return to pay status if they fall during a period of leave without pay and the employee is credited on the new date. The vacation anniversary date does not change and, for leave without pay of less than six months, the employee is credited with vacation bonus days upon return to pay status.

Eligibility For Military Leave with Pay During Post-Discharge Period
The new MOUs also address the situation where a reservist or National Guard member may be ordered to perform military duty during the 90-day post-discharge period. That duty may fall within the 90-day post-discharge period or may begin during that post-discharge period and continue beyond it. For example, an employee may be required to perform weekend drill duty or to fulfill a summer training requirement which is not related to the war on terror. Or, the employee may be ordered to perform a period of active duty which may or may not be related to the war on terror.

The post-discharge benefits described in the new MOUs provide certain benefits to employees called to ordered military duty during the 90-day post-discharge period, regardless of whether such duty is related to the war on terror.

Specifically, employees ordered to perform military duty during the 90-day post-discharge period are entitled to military leave with pay under section 242 of the New York State Military Law and to the special military leave benefits negotiated with employee unions, to the extent that such benefits are applicable. Employees are entitled to such military benefits regardless of whether they exercise their option to charge leave credits or to be placed on leave without pay during the 90-day post-discharge period.

Retroactivity

If eligible employees wish to receive such benefits, they must comply with normal requirements to produce military orders and leave and earnings statements. However, under USERRA and Section 243, employees may make contact with their agencies at any point during the 90-day post-discharge period. At the point the employee first contacts the agency, the agency must make the employee aware of the option to submit military orders to establish eligibility for Section 242 benefits and/or special military benefits.

If an employee wishes to avail himself/herself of this option, the employee may make that request at any point during the 90-day post-discharge period but no later than the date of return to work. Employees who elect to use available military benefits during this period may do so retroactive to the date following the date of discharge from the covered active duty. Supporting documentation in the form of military orders and leave and earning statements is required for any period of paid military leave.

Employees ordered to military duty within the 90-day post-discharge period are not required to submit military orders unless such orders will continue beyond the end of the 90-day period. In such cases, the employee retains the option not to be placed on military leave until the 90-day period has ended and the employee would have reported to work except for the military orders. Supporting documentation in the form of military orders and leave and earning statements is required for any period of paid military leave.

Work Schedule

Paid military leave under Section 242 and special military benefits negotiated with employee unions, and extended to M/C employees, are available to the extent that there is a conflict with the employee's work schedule as described above.

Section 242 Benefits During Post-Discharge Period

Paid leave under section 242 is available to the extent that military orders conflict with the employee's schedule as defined above, provided the employee has not already exhausted his current calendar year Section 242 entitlement. For example, an employee discharged in March 2007 receives orders for a weekend drill in April 2007 that coincides with his scheduled workdays. Provided the employee has available Section 242 leave in calendar year 2007, the employee is entitled to be placed on Section 242 leave for that drill even though it falls during the 90-day post-discharge leave period.

In order to receive this benefit, employees must request it and must comply with requirements to submit military orders and leave and earning statements.

Special Military Benefits During Post-Discharge Period

Special military benefits negotiated with employee unions, and extended to M/C employees, are available to the extent that the employee meets the specific eligibility requirements for such

benefits. For example, an employee discharged in June 2007 from active duty related to the war on terror, who has no remaining Section 242 benefit available in 2007 and who receives

orders for two weeks of training duty in July 2007 is eligible for training leave at reduced pay pursuant to negotiated agreements with employee unions, even though such orders are issued during the 90-day post-discharge leave period.

In order to receive these benefits, employees must make a request and must comply with requirements to submit military orders and leave and earning statements.

Calculation of 90-Day Post-Discharge Period

The 90-day post-discharge period is calculated starting with the day following the date of discharge from the qualifying military service described under Eligibility above. The 90-day count continues without interruption or recalculation even if the employee is placed on paid military leave during this period.

Upon expiration of such orders the employee completes the remainder of the 90-day period unless the employee elects to return to work sooner. For example, an employee who elects not to return to work for 60 days following discharge receives military orders for 8 days after 30 of those 60 days have elapsed. The employee performs the military duty during days 31 through 38 and continues to be absent for another 22 days (60 days from date of discharge).

If the military orders begin during the 90-day post-discharge period and end after the expiration of that period, the applicable time frames to return to work following release from military duty established under USERRA apply.

TO: Manual Holders
FROM: Terry Jordan, Director of Staffing Services
SUBJECT: Extension of Military Leave Benefits Related to the War on Terror through December 31, 2006

The Attendance Rules for Employees in New York State Departments and Institutions are being amended to extend through December 31, 2006 the special military leave benefits (Supplemental Military Leave at full pay, Military Leave at Reduced Pay, and Training Leave at Reduced Pay) granted in connection with the war on terror for both non-managerial/confidential and managerial/confidential employees. Previously these benefits were due to expire on December 31, 2004. These amendments are consistent with signed Memoranda of Understanding between the State and CSEA, PEF, DC-37, Council 82, and NYSCOPBA.

Agencies should consult the following memoranda to ensure proper administration of these benefits:

Memo	**Date**	**Subject**
Advisory Memo 2004-01	April 2004	Clarification of Special Military Leave Benefits
Advisory Memo 2002-04	September 2002	Impact on Overtime Compensation of Placement on Training Leave at Reduced Pay
Advisory Memo 2002-03	May 2002	Training Leave at Reduced Pay and Extension of Special Military Leave
Advisory Memo 2002-01	March 2002	Frequently Asked Questions about Special Military Leave
Advisory Memo 2001-06	September 2001	Special Military Leave

Questions about the special military leave benefits should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Holders
FROM: Terry Jordan, Director of Staffing Services
SUBJECT: Clarification of Special Military Leave Benefits

This memo addresses several issues associated with the ongoing administration of attendance and leave benefits for employees activated for military service in the war on terror. Questions concerning application of these military leave benefits may be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

TOPIC LIST

RULE AMENDMENTS

Parts 21 and 28 of the Attendance Rules for Employees in New York State Departments and Institutions were amended to extend the availability of Supplemental Military Leave, Military Leave at Reduced Pay and Training Leave at Reduced Pay through December 31, 2004.

COVERED MILITARY ORDERS

In order to confirm an employee's eligibility for Supplemental Military Leave at full pay and Military Leave at Reduced Pay, a determination must be made as to whether military orders have been issued for duty related to the war on terror. Until further notice, in accordance with the memorandum of the Governor's Office of Employee Relations (GOER) dated December 1, 2003 on Special Military Benefits, orders should be reviewed in accordance with the following principles:

1. If the orders submitted by the employee contain any clear indication that the employee will be deployed to the Middle East, assume the orders are related to the war on terror.

2. If the orders contain any clear indication that the employee will be performing active duty related to homeland defense, assume that the orders are related to the war on terror.

3. If the orders contain any clear indication that the employee will be providing or receiving training in preparation for deployments related to the war on terror, assume that the orders are related to the war on terror.

4. If the orders contain any clear indication that the employee will be performing duties related to logistical support of units being deployed in the war on terror (including service in units backfilling for other units deployed to the Middle East), assume that the orders are related to the war on terror.

If the orders submitted by the employee do not clearly fall within the preceding categories, ask the employee whether or not the orders are related to the war on terror. If the employee asserts that they are, contact the Attendance and Leave Unit of this Department for assistance in evaluating the orders.

Orders specifying Initial Active Duty Training (IADT) continue to be ineligible for these special military benefits; however, eligible employees on IADT continue to be covered by section 242 of the New York State Military Law

Employees absent from work due to performance of routine inactive duty training such as weekend drills should not be treated as if they are performing military duty related to the war on terror. Such employees are covered by section 242 of the New York State Military Law and may be eligible for Training Leave at Reduced Pay.

MILITARY ORDERS SPANNING CALENDAR YEARS

One of the topics that has generated confusion has been how to correctly apply section 242 of the New York State Military Law to military orders that span more than one calendar year.

Under section 242, reservists and National Guard members are entitled to 30 calendar days or 22 workdays of paid military leave per calendar year or period of ordered military duty spanning two calendar years. Therefore, employees can use no more than 30 calendar days or 22 workdays in any single continuous period of ordered military duty. In cases where a single period of ordered military duty spans two calendar years, the entitlement to paid leave under section 242 is applied in two "steps," as follows:

1. At the beginning of the period of ordered military duty, the employee is entitled to any unused portion of his/her section 242 entitlement for the calendar year in which the ordered period of duty begins.

2. Between January 1 of the following year and the end of that continuing period of ordered military duty, that employee can access up to 30 calendar days or 22

workdays of paid leave *minus the number of calendar days or workdays of section 242 leave used in* ***Step 1****.*

Once that particular period of ordered duty is over, the employee's section 242 entitlement for the remainder of that calendar year is equal to 30 calendar days or 22 workdays of paid leave, *minus the number of calendar days or workdays of section 242 leave used in* ***Step 2****.*

For example, an employee who had used 13 calendar days of section 242 leave prior to September 11, 2001, and who received a set of orders from October 1, 2001 through June 30, 2002, first used the remaining 17 calendar days of his/her calendar year 2001 section 242 leave, then exhausted Supplemental Military Leave at full pay before going on Military Leave at Reduced Pay through December 31, 2001. On January 1, 2002, he/she was returned to full pay status to use 13 calendar days of his/her section 242 entitlement for calendar year 2002, bringing him/her to the 30-day cap for orders that span two calendar years. He/She was then returned to Military Leave at Reduced Pay until the orders ended on June 30, 2002. The remaining 17 calendar days of his/her calendar year 2002 section 242 entitlement were not available to him/her until after the orders ended on June 30, 2002. (Please note that this example illustrates the application of section 242 of the New York State Military Law to military orders spanning calendar years and, for simplicity, does not address the issue of access to leave credits. See Access to Leave Credits below.)

As discussed below, proper application of the benefit provided by section 242 also requires us to distinguish between new orders and amended orders.

NEW ORDERS VERSUS AMENDED ORDERS

For the purposes of administering military leave benefits, it is important to distinguish between new orders and amended orders. New orders initiate a new period of ordered military duty. There is no requirement that an employee return to work between separate sets of orders in order to establish new orders. Separate sets of orders may be "back to back." For example, an employee is issued one set of orders from November 1, 2002 through February 15, 2003 and a second set of orders from February 16, 2003 through March 31, 2003.

This is in contrast to orders that are simply amended or extended and do not initiate a new period of ordered military duty. Amended or extended orders will normally be labeled as such and are frequently for continuation of the same type of duty as the original orders. For example, an employee whose initial orders run from November 1, 2002 through February 15, 2003 may have those orders amended to change the end date from February 15, 2003 to March 31, 2003.

The question of whether orders are new, amended, or extended is significant in determining whether an employee has access to any remaining section 242 benefits for a given calendar year. Under section 242 of the State Military Law employees are limited to 30 calendar days or 22

workdays of paid leave in a calendar year or a period of ordered military duty that spans more than one calendar year. For example, an employee is issued two sets of military orders related to the war on terror (one from November 1, 2002 through February 15, 2003, and the second from February 16, 2003 through March 31, 2003) and used 20 calendar days of his/her section 242 entitlement prior to November 1, 2002. From November 1 through 10, 2002, he/she used the remainder of his calendar year 2002 section 242 entitlement (10 calendar days) and went on Military Leave at Reduced Pay. On January 1, 2003, he/she returned to full pay status for 20 calendar days to bring him/her to the 30 day cap for that period of continuous orders spanning two calendar years, and then returned to Military Leave at Reduced Pay until the orders ended on February 15, 2003. When his/her new orders began on February 16, 2003 he/she then accesses the remainder of his/her 2003 section 242 leave (10 calendar days).

In contrast, an employee whose period of ordered military duty from November 1, 2002 through February 15, 2003 is simply extended through March 31, 2003 remains on one continuous period of ordered military duty through March 31, 2003. The employee is limited to a maximum of 30 calendar days of leave under section 242 for that continuous period of ordered military duty (in this example, 10 calendar days in 2002 and 20 calendar days in 2003) and cannot access the remainder of the 2003 section 242 entitlement (10 calendar days) until these orders end and the employee is issued new orders.

These examples illustrate the impact of new or amended/extended orders on access to section 242 benefits and, for simplicity, do not address the issue of access to leave credits. See "Access to Leave Credits."

ACCESS TO LEAVE CREDITS

Questions have arisen concerning the point at which employees are entitled to charge leave credits in connection with military absences. The following principles apply:

Military Leave at Reduced Pay

In order to allow employees who are performing lengthy periods of military service in the war on terror more opportunities to use accrued leave credits before being placed on Military Leave at Reduced Pay, the policy governing access to credits during periods of ordered military duty has been amended.

Specifically, when an employee performing military duty related to the war on terror exhausts available military leave at full pay under section 242 of the New York State Military Law, he/she may charge appropriate credits provided that:

1. His/her entitlement to Supplemental Military Leave at full pay has been exhausted; and

2. He/she has not previously been placed on Military Leave at Reduced Pay following **this instance** of exhausting available military leave under section 242 of the New York State Military Law.

For the purpose of determining when an employee is allowed to charge appropriate leave accruals during an absence related to military duty in the war on terror, available military leave under section 242 is deemed to be exhausted when:

a. The employee has reached 30 calendar days/22 workdays of leave under section 242 in a calendar year; OR
b. The employee has reached 30 calendar days/22 workdays of leave under section 242 in a continuous period of ordered military duty spanning calendar years.

In other words, employees must be permitted to charge appropriate credits (credits other than sick leave) prior to being placed on Military Leave at Reduced Pay following each instance of exhausting available military leave under section 242.

If the 30 calendar days or 22 workdays of section 242 leave available for a continuous period of ordered duty spanning calendar years were exhausted in a prior calendar year, the employee does not have an opportunity to begin charging credits at the start of the following calendar year while in the same continuous period of ordered duty solely because no section 242 leave is available on January 1 of that new calendar year (see example 11).

Examples of the application of these principles follow:

Orders That Fall Within a Single Calendar Year

1. An employee performed military duty related to the war on terror for the first time from March 1, 2003 through June 30, 2003. The employee used 30 calendar days of section 242 leave, thereby exhausting available military leave under section 242, and then used 30 calendar days of Supplemental Military Leave at full pay. Because the employee has not previously been placed on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242, he then has the option to charge credits prior to being placed on Military Leave at Reduced Pay.

2. An employee who had not previously used any of his calendar year 2004 section 242 leave receives military orders related to the war on terror in February 2004 for seven calendar days, then does 14 calendar days of summer camp in June 2004 and then receives orders related to the war on terror from September through November 2004. The employee used 25 calendar days of Supplemental Military Leave at full pay prior to calendar year 2004.

The employee uses seven calendar days of his 2004 section 242 leave in February 2004, and 14 calendar days in June 2004. For the period of military duty from September through November

2004 related to the war on terror, the employee uses the remainder of his section 242 leave for 2004 (nine calendar days) thereby exhausting available military leave under section 242, and then uses the remaining five calendar days of Supplemental Military Leave at full pay. Because he has not previously been placed on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242, the employee has an option to charge credits prior to being placed on Military Leave at Reduced Pay.

3. An employee has military orders related to the war on terror from January 31, 2004 through March 15, 2004. The employee had not previously used section 242 leave in calendar year 2004. She has not previously used any Supplemental Military Leave at full pay.

The employee uses her 30 calendar days of section 242 leave at full pay for calendar year 2004, thereby exhausting available military leave under section 242, and then uses 15 calendar days of her Supplemental Military Leave at full pay until the orders end on March 15. The employee then receives a new set of orders related to the war on terror from August 1, 2004 through October 31, 2004. She first uses the remaining 15 calendar days of Supplemental Military Leave at full pay. Because she has not previously been placed on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242, the employee then has the option to charge credits prior to going on Military Leave at Reduced Pay.

4. An employee is on ordered military duty related to the war on terror beginning January 15, 2004 through February 22, 2004. The employee has not previously used section 242 leave in calendar year 2004. The employee had exhausted her Supplemental Military Leave at full pay prior to 2004.

Beginning January 15, the employee first uses her 30 calendar days of leave under section 242 thereby exhausting available military leave under section 242. The employee then exercises her option to charge credits until the orders end on February 22, 2004. The employee is again ordered to military duty related to the war on terror from April 1, 2004 through April 30, 2004. Because she has not previously been placed on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242, the employee has the option to charge credits prior to going on Military Leave at Reduced Pay.

5. An employee is ordered to military duty related to the war on terror from January 2, 2004 through March 31, 2004 and from August 15 through October 15, 2004. The employee had used his Supplemental Military Leave at full pay prior to calendar year 2004.

Beginning January 2, the employee uses 30 calendar days of section 242 leave at full pay for 2004, thereby exhausting available military leave under section 242. He has the option to charge credits prior to being placed on Military Leave at Reduced Pay. The employee charges five days of vacation and is then placed on Military Leave at Reduced Pay until the first set of orders end. When the second set of orders commence in August 2004, he does not have the option to charge

credits because he has already been on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242. Therefore, he is immediately placed on Military Leave at Reduced Pay.

6. An employee has military orders related to the war on terror from March 1 through March 30, 2004. The employee has not previously used any section 242 leave in calendar year 2004. The employee had exhausted Supplemental Military Leave at full pay prior to 2004.

He uses 30 calendar days of section 242 leave for this period of ordered military duty, thereby exhausting available military leave under section 242. He again performs military duty related to the war on terror from May 1 through June 30, 2004. Because he has not previously been placed on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242, he has the option to charge credits before being placed on Military Leave at Reduced Pay.

Orders Spanning Calendar Years

7. An employee receives orders for military duty related to the war on terror from December 21, 2003 to April 1, 2004. The employee has five remaining days of Supplemental Military Leave at full pay and had previously used 15 days of his calendar year 2003 section 242 leave for orders not related to the war on terror. Therefore the employee has 15 calendar days of his calendar year 2003 section 242 leave available when these orders begin on December 21, 2003.

The employee uses 11 calendar days of his calendar year 2003 section 242 leave from December 21 through December 31. Beginning January 1, 2004, the employee accesses 19 calendar days of his calendar year 2004 section 242 leave to bring him to a total of 30 calendar days of section 242 leave for this period of military duty spanning calendar years, thereby exhausting available military leave under section 242. The employee then uses the five remaining days of Supplemental Military Leave at full pay. Then the employee exercises his option to charge credits prior to being placed on Military Leave at Reduced Pay.

This employee subsequently receives orders related to the war on terror from October 1, 2004 through November 30, 2004. The employee exhausts his remaining section 242 leave for calendar year 2004 (30 calendar days minus the 19 calendar days already used in 2004 under the previous orders spanning calendar years). He then has an opportunity to charge credits prior to being placed on Military Leave at Reduced Pay.

8. An employee receives orders related to the war on terror for the first time effective December 1, 2003 through June 15, 2004. He previously used 14 calendar days of his calendar year 2003 section 242 leave and therefore has 16 calendar days of section 242 leave available in calendar year 2003 when these orders begin on December 1.

He uses those 16 calendar days of section 242 leave and is then placed on Supplemental Military Leave at full pay from December 17 through December 31, 2003 (15 calendar days). Beginning January 1, 2004, he uses 14 calendar days of section 242 leave for calendar year 2004 (30 calendar days minus the 16 calendar days used in 2003 under these orders spanning calendar years). This brings him to a total of 30 calendar days of section 242 leave for this period of military duty spanning calendar years, thereby exhausting available military leave under section 242. He then uses his remaining 15 calendar days of Supplemental Military Leave at full pay. Because he has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, he then has an option to charge credits prior to being placed on Military Leave at Reduced Pay.

9. An employee receives military orders related to the war on terror from December 18, 2003 through January 28, 2004. He previously used 25 calendar days of his calendar year 2003 section 242 leave. He has no remaining Supplemental Military Leave at full pay.

When these orders begin on December 18, he uses the five remaining days of his 2003 section 242 leave, thereby exhausting available military leave under section 242. Because he has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, he then exercises his option to charge credits through December 31, 2003.

On January 1, 2004 the employee again uses military leave under section 242. He uses 25 days of his calendar year 2004 section 242 leave (30 calendar days minus the five calendar days used in 2003 under these orders spanning calendar years), bringing him to a total of 30 calendar days of section 242 leave for this period of military duty spanning calendar years, thereby exhausting available military leave under section 242. Because he has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, he can elect to charge leave credits before being placed on Military Leave at Reduced Pay.

The employee receives new orders related to the war on terror effective April 10, 2004 through May 10, 2004. He first uses the remaining five days of his calendar year 2004 section 242 leave, thereby exhausting available military leave under section 242. Because he has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, he then elects to charge credits for six days prior to being placed on Military Leave at Reduced Pay.

The employee then receives another set of orders related to the war on terror from September 1, 2004 through September 30, 2004. He does not have the option to charge credits because he has already been on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242. Therefore, he is immediately placed on Military Leave at Reduced Pay.

10. An employee is ordered to military duty related to the war on terror effective June 10, 2003 through June 9, 2004. She had previously used six calendar days of her section 242 leave for calendar year 2003. She has no remaining Supplemental Military Leave at full pay.

When these orders begin on June 10, she uses her remaining 24 calendar days of her section 242 leave for calendar year 2003, thereby exhausting available military leave under section 242. Because she has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, she exercises her option to charge credits prior to being placed on Military Leave at Reduced Pay through December 31, 2003.

Effective January 1, 2004, she again uses military leave under section 242. She uses six calendar days of her section 242 leave for calendar year 2004 (30 calendar days minus the 24 calendar days previously used in 2003 under these orders spanning calendar years), bringing her to a total of 30 calendar days of section 242 leave for this period of military duty spanning calendar years, thereby exhausting available military leave under section 242. Because she has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, she has an option to charge credits prior to being placed on Military Leave at Reduced Pay.

11. An employee receives orders for military duty related to the war on terror from December 1, 2002 through March 31, 2004. The employee used all but five days of his section 242 leave for calendar year 2002 prior to December 2002. He used all his Supplemental Military Leave at full pay prior to 2002.

When the orders begin in December 2002, he uses five calendar days of section 242 leave from December 1 through December 5, thereby exhausting his calendar year 2002 section 242 leave. Because he has not previously been placed on Military Leave at Reduced Pay following this instance of exhausting available military leave under section 242, he then has an option to charge credits prior to being placed on Military Leave at Reduced Pay. He charges five days and then goes on Military Leave at Reduced Pay through December 31, 2002.

Beginning January 1, 2003, he again uses military leave under section 242. He uses 25 calendar days of his calendar year 2003 section 242 leave (30 calendar days minus the five calendar days used in 2002 under these orders spanning calendar years), bringing him to a total of 30 calendar days of section 242 leave for this period of military duty spanning calendar years, thereby exhausting available military leave under section 242. He has no further entitlement under section 242 under these orders spanning three calendar years. Following this instance of exhausting available section 242 leave, he then has an option to charge credits prior to being placed on Military Leave at Reduced Pay through December 31, 2003.

The employee exhausted his entitlement to section 242 leave for these orders spanning calendar years during calendar year 2003 and had no further section 242 entitlement under these orders. The employee had already been placed on Military Leave at Reduced Pay after exhausting the section 242 leave available under these orders in 2003. Therefore, the employee does not have the option to begin charging credits at the start of the next calendar year while in this continuous period of ordered military duty. The employee remains on Military Leave at Reduced Pay.

Training Leave at Reduced Pay

An employee has **one window of opportunity per calendar year** to charge leave credits before being placed on Training Leave at Reduced Pay. This opportunity exists only when ALL of the following conditions are met:

- The employee has exhausted his/her total entitlement to paid leave under section 242 of the New York State Military Law in the current calendar year;
- In the current calendar year the employee has previously performed active duty related to the war on terror; and
- The employee has NOT previously been placed on Training Leave at Reduced Pay in the current calendar year.

Employees who meet all of these conditions may elect to charge leave credits (except sick leave) for military absences unrelated to the war on terror. Once they stop charging credits and use Training Leave at Reduced Pay for the first time in the calendar year, however, they are not allowed to charge leave credits for military absences to which Training Leave at Reduced Pay would apply for the remainder of the calendar year.

Some examples follow:

1. An employee is activated from January 5, 2003 through May 30, 2003 for the first time in connection with the war on terror. He uses 30 calendar days of section 242 leave, exhausting his 2003 entitlement to section 242 leave. He next uses 30 calendar days of Supplemental Military Leave at full pay. He then has an option to charge credits, which he exercises, prior to being placed on Military Leave at Reduced Pay.

In June, 2003, the employee performs 14 calendar days of training duty (summer camp). The employee is eligible for Training Leave at Reduced Pay because he has exhausted his 2003 calendar year entitlement to section 242 leave and he has previously performed military duty related to the war on terror in the 2003 calendar year. The employee has an option to charge credits prior to going on Training Leave at Reduced Pay, because he has not previously utilized Training Leave at Reduced Pay in the 2003 calendar year.

From January 2, 2004 through March 1, 2004, this employee performs active military duty that is not related to the war on terror. He uses his 30 calendar days of section 242 leave for calendar

year 2004, exhausting section 242 leave for the calendar year, and has the option to charge credits prior to being placed on military leave without pay. The employee is not eligible for Training Leave at Reduced Pay because he has not previously performed military duty related to the war on terror thus far in calendar year 2004.

In June 2004, the employee performs 14 calendar days of training duty (summer camp). He has the option to charge credits prior to being placed on military leave without pay. He is not eligible for Training Leave at Reduced Pay because he has not previously performed military duty related to the war on terror thus far in calendar year 2004.

The employee subsequently receives orders for military duty related to the war on terror from September 1 through September 30, 2004. The employee has an option to charge credits prior to being placed on Military Leave at Reduced Pay because he has not previously been on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242 in January 2004.

The employee next receives orders for ten days of training from October 16 through October 25, 2004. The employee will be eligible for Training Leave at Reduced Pay because he has previously performed military duty related to the war on terror in calendar year 2004. He has the option to charge credits prior to being placed on Training Leave at Reduced Pay because he has not previously been placed on Training Leave at Reduced Pay in the current calendar year.

2. An employee, who has not previously performed military duty related to the war on terror is activated for nine calendar days in January 2003 for duty related to the war on terror. She uses nine calendar days of her calendar year 2003 section 242 entitlement.

She then receives orders for 21 calendar days of training in February 2003. She uses the remaining 21 calendar days of her section 242 entitlement for calendar year 2003, thus exhausting her section 242 entitlement for the calendar year.

She is then activated for duty related to the war on terror from March 1, 2003 through March 5, 2003. She uses five days of Supplemental Military Leave at full pay for this absence.

She next performs two days of drills on March 20 and 21, 2003. She is eligible for Training Leave at Reduced Pay since she has performed duty related to the war on terror in 2003 and has exhausted her 2003 entitlement to section 242 leave. However, rather than using Training Leave at Reduced Pay, she opts to charge two days of vacation. The option to charge credits is available to her because she has not previously used Training Leave at Reduced Pay in this calendar year.*

She again performs drills on April 20 and 21, 2003. This time, she uses Training Leave at Reduced Pay, thus precluding future use of leave credits in calendar year 2003 for absences for which Training Leave at Reduced Pay is available.*

She is then activated for 60 days of active duty related to the war on terror from June 1 through July 30, 2003. She first exhausts her remaining 25 days of Supplemental Military Leave at full pay from June 1 through June 25, 2003. She then has the option to charge appropriate credits prior to being placed on Military Leave at Reduced Pay, because she has not previously been placed on Military Leave at Reduced Pay following the most recent instance of exhausting available military leave under section 242 in February 2003. She opts to charge ten days of vacation and then uses Military Leave at Reduced Pay for the balance of this activation. She will not have another opportunity in calendar year 2003 to charge leave credits for absences for which Military Leave at Reduced Pay is available.

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* For duty not related to the war on terror, overtime ineligible employees continue to be subject to the provisions of sections 21.16 and 28-1.18 of the Attendance Rules which provide paid leave when such employees are ordered to temporary military duty for a period of less than a Thursday through Wednesday workweek. See Attendance and Leave Manual Advisory Memorandum 2002-03 dated May 2002 and Policy Bulletin 1998-01 dated July 6, 1998.

TO: Manual Holders

FROM: William E. Doyle

SUBJECT: Extension of Military Leave Benefits Related to the Events of September 11, 2001 through December 31, 2003

The Attendance Rules for Employees in New York State Departments and Institutions are being amended to extend through December 31, 2003 the special military leave benefits (Supplemental Military Leave at full pay, Military Leave at Reduced Pay and Training Leave at Reduced Pay) granted in connection with the events of September 11, 2001. Previously these benefits were due to expire on December 31, 2002. The amendments to the Attendance Rules are consistent with Memoranda of Understanding between the State and CSEA, PEF, DC-37, Council 82, and NYSCOPBA.

Agencies should read this memo in conjunction with the following:

Memo	**Date**	**Subject**
Advisory Memo 2001-06	September 25, 2001	Special Military Leave
Advisory Memo 2002-01	March 20, 2002	Frequently Asked Questions about Special Military Leave
Advisory Memo 2002-03	May 2, 2002	Training Leave at Reduced Pay and Extension of Special Military Leave
Advisory Memo 2002-04	September 2, 2002	Impact on Overtime Compensation of Placement on Training Leave at Reduced Pay

SUPPLEMENTAL MILITARY LEAVE WITH PAY

Supplemental Military Leave is leave at full pay for duty related to the events of September 11, 2001. Covered employees are eligible for a total of 30 calendar days or 22 workdays (whichever provides the greater benefit to the employee) of Supplemental Military Leave at full pay upon exhaustion of their military leave with pay entitlement under Section 242 of the New York State Military Law. The earliest date for which Supplemental Military Leave at full pay could be granted is September 11, 2001 to employees who had previously exhausted their entitlement to paid military leave under the New York State Military Law. Employees shall continue to be eligible to receive Supplemental Military Leave at full pay through December 31, 2003. Regardless of the number of times an employee is activated

between September 11, 2001 and December 31, 2003, an employee will be entitled to no more than one grant of Supplemental Military Leave at full pay. During periods of Supplemental Military Leave at full pay, the employee receives the same attendance and leave benefits as an employee on military leave with pay under the New York State Military Law.

MILITARY LEAVE AT REDUCED PAY

Following exhaustion of military leave with pay under Section 242 of the Military Law and Supplemental Military Leave at full pay under the Attendance Rules, employees are deemed to be on Military Leave at Reduced Pay for military duty related to the events of September 11, 2001. If eligible, employees may request use of available leave credits, other than sick leave, subject to the prior approval of the appointing authority to use before being placed on Military Leave at Reduced Pay. This includes employees who are eligible but do not in fact receive any income supplement from the State because their military income equals or exceeds their State salary.

Employees shall continue to be eligible to receive Military Leave at Reduced Pay through December 31, 2003.

TRAINING LEAVE AT REDUCED PAY

During calendar year 2003 employees may use up to 30 calendar days or 22 workdays of Training Leave at Reduced Pay for any required military duty (including mandatory weekend and summer training or other activation) that is not related to the events of September 11, 2001.

Employees are eligible for Training Leave at Reduced Pay following:

(1) Any active military service in calendar year 2003 that is related to the events of September 11, 2001; and
(2) Exhaustion of their calendar year 2003 Military Leave entitlement under Section 242 of the New York State Military Law and any leave credits (other than sick leave) that they elect to use.

CALCULATION OF MILITARY LEAVE AT REDUCED PAY AND TRAINING LEAVE AT REDUCED PAY

Military Leave at Reduced Pay and Training Leave at Reduced Pay used in calendar year 2003 will be calculated in the following manner:

1. For employees who utilized Military Leave at Reduced Pay or Training Leave at Reduced Pay prior to calendar year 2003, the rate of reduced pay for either leave category at any point in 2003 shall be calculated as follows:

    a. Those on Training Leave at Reduced Pay or Military Leave at Reduced Pay on January 1, 2003 shall have the calculation of reduced pay for either leave category based on State salary (base pay plus location pay

plus geographic differential) as of January 1, 2003 reduced by the military pay rate used in calculating the most recent period in either reduced pay status prior to 2003.

b. For those whose first use of either reduced pay category in 2003 begins after January 1, the rate of reduced pay shall be based on State salary (base pay plus location pay plus geographic differential) as of the last day in full pay status prior to first use of Military Leave at Reduced Pay or Training Leave at Reduced Pay in 2003 reduced by the military pay rate used in calculating the most recent period in either reduced pay status prior to 2003.

2. For employees who have not utilized Military Leave at Reduced Pay or Training Leave at Reduced Pay prior to calendar year 2003, the rate of reduced pay for either leave category at any point in 2003 shall be calculated as follows:

   The rate of reduced pay shall be based on State salary (base pay plus location pay plus geographic differential) as of the last day in full pay status prior to first use of Military Leave at Reduced Pay or Training Leave at Reduced Pay reduced by military pay (defined as base pay plus housing and food allowances) as of the first day in Military Leave at Reduced Pay or Training Leave at Reduced Pay status.

3. For all employees covered by sections (1) and (2) above, the rate of reduced pay calculated for the first use of Military Leave at Reduced Pay or Training Leave at Reduced Pay in 2003 shall be used for any subsequent period of leave under either category in 2003.

IMPACT ON LEAVE ACCRUALS FOR EMPLOYEES ON MILTARY LEAVE AT REDUCED PAY OR TRAINING LEAVE AT REDUCED PAY

Biweekly Vacation and Sick Leave Credits

Employees on Military Leave at Reduced Pay or Training Leave at Reduced Pay are not eligible to earn biweekly vacation and sick leave credits for any pay period in which they are not in full pay status for at least seven out of ten days (or a proportionate number of days for employees with work schedules of less than 10 days in a biweekly payroll period). However, any balances standing to the employee's credit at the time that Military Leave at Reduced Pay or Training Leave at Reduced Pay began are restored upon the employee's return from leave except for credits that otherwise would have expired.

Holidays

Employees on Military Leave at Reduced Pay or Training Leave at Reduced Pay do not receive credit for holidays, including floating holidays, that fall during a period of reduced pay.

Unused holiday leave credits earned prior to the period of Military Leave at Reduced Pay or Training Leave at Reduced Pay will be restored upon the employee's return from leave except for credits that otherwise would have lapsed.

When calculating entitlement to Training Leave at Reduced Pay or Military Leave at Reduced Pay, a holiday that falls during a period of Training Leave at Reduced Pay or Military Leave at Reduced Pay is counted as a calendar day but not as a workday of entitlement used. A floating holiday is counted as both a calendar day and a workday.

Personal Leave Anniversary Date

If the employee's personal leave anniversary date falls during a period of Military Leave at Reduced Pay or Training Leave at Reduced Pay, the employee is granted his/her personal leave days and the anniversary date does not change. Unused personal leave standing to the employee's credit at the time the period of Military Leave at Reduced Pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed.

Vacation Anniversary Date

If the employee's vacation anniversary date falls during a period of Military Leave at Reduced Pay or Training Leave at Reduced Pay, the employee is granted any vacation bonus days or additional vacation days for which he/she is eligible, subject to applicable maximums, and the vacation anniversary date is not adjusted. Unused vacation standing to the employee's credit at the time the period of Military Leave at Reduced Pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed. (See Advisory Memorandum 2002-06, Extension of Emergency Vacation, dated December 2002).

Income Protection Plan Sick Leave Grant Date

If the employee's Income Protection Plan sick leave grant date falls during a period of Military Leave at Reduced Pay or Training Leave at Reduced Pay, the grant date is adjusted to the date the employee returns from leave and the employee receives his/her four-day grant on that revised date. Any sick leave standing to the employee's credit when the period of military leave at reduced pay began will be restored to the employee upon return from military duty except for credits that otherwise would have lapsed.

Lump Sum Payment

Lump sum payment for accrued and unused vacation and overtime compensatory leave credits pursuant to sections 23.2 and 30.2 of the Attendance Rules cannot be processed until the end of the period of military leave with pay, including periods of Military Leave at Reduced Pay and Training Leave at Reduced Pay. (Under the Attendance Rules, employees absent for training purposes are ineligible for a lump sum payment regardless of their pay status.)

Questions about this information should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Holders
FROM: William Doyle
SUBJECT: Training Leave at Reduced Pay For Military Duty Not Related to the Events of September 11th and Extension of Special Military Leave in Connection With the Events of September 11th

SPECIAL MILITARY LEAVE

The Attendance Rules for Employees in New York State Departments and Institutions are being amended to extend through December 31, 2002 the special military leave benefits granted in connection with the events of September 11, 2001. Previously these benefits were due to expire September 10, 2002. (See Advisory Memorandum No. 2001-06, dated September 25, 2001).

TRAINING LEAVE AT REDUCED PAY

The Attendance Rules are also being amended to provide Training Leave at Reduced Pay for eligible Nonmanagerial/Confidential and Managerial/Confidential employees. This new leave category will be available to employees who (1) performed military duty in connection with the events of September 11, 2001 during calendar year 2002; and (2) have exhausted their calendar year 2002 entitlement to military leave at full pay pursuant to Section 242 of the State Military Law and subsequently perform military duty in 2002 that is not related to the events of September 11th (such as drills, summer camp and other ordered training as well as active duty unrelated to the events of September 11th).

Employees are eligible for up to a maximum of 30 calendar days or 22 workdays of Training Leave at Reduced Pay, whichever is greater. Training Leave at Reduced Pay is available during the period January 1, 2002 through December 31, 2002. Eligible employees will be paid regular State salary (defined as base pay plus location pay plus geographic differential) reduced by military pay (defined as base pay plus housing and food allowances).

These Rule amendments are consistent with Memoranda of Understanding between the State and CSEA, PEF, DC-37, Council 82, and NYSCOPBA that were negotiated in recognition of the fact that employees who performed military duty in calendar year 2002 in connection with the events of September 11th may not have sufficient paid leave remaining to cover military obligations not related to the events of September 11, 2001.

Questions about information in this memo, or other military leave issues, should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

Employees in Training Leave at Reduced Pay status may continue NYSHIP Empire Plan or HMO family coverage during the period of eligibility for this special leave category (up to 30

calendar days) by paying the employee share of the premium. Separate guidelines will be issued by the Employee Benefits Division of this Department.

Eligibility

Employees in covered bargaining units, or in positions designated Managerial/Confidential are eligible for Training Leave at Reduced Pay following (1) any active military service in calendar year 2002 that is related to the events of September 11, 2001; and (2) exhaustion of their calendar year 2002 Military Leave entitlement under Section 242 of the New York State Military Law, and any leave credits (other than sick leave) that they elect to use. This benefit is available for military absences not related to the events of September 11, 2001 such as training, drills, summer camps, and other active duty that is not part of the response to those events.

This benefit is available during the period January 1, 2002 through December 31, 2002. During this period, employees are eligible for a maximum of 30 calendar days or 22 workdays of Training Leave at Reduced Pay. Calendar days and workdays of Training Leave at Reduced Pay are counted in the same manner as calendar days and workdays are counted under Section 242 of the State Military Law.

While Training Leave at Reduced Pay is similar in operation to Military Leave at Reduced Pay provided under Memoranda of Understanding signed in September 2001, it should be understood that it is a separate benefit. Eligibility for Training Leave at Reduced Pay is not contingent upon prior use of Military Leave at Reduced Pay.

Calculation of Benefit

For employees who have already utilized Military Leave at Reduced Pay, for military duty in connection with the events of September 11th, the rate of pay calculated for that leave will also apply to Training Leave at Reduced Pay.

For employees who have not already utilized Military Leave at Reduced Pay, the rate of pay for Training Leave at Reduced Pay will be based on the employee's regular State salary as of the last day in full pay status before his or her first use of Training Leave at Reduced Pay and military pay as of the first day of the Training Leave at Reduced Pay.

Once an employee has used Training Leave at Reduced Pay, the stipend provided by this benefit is not recalculated to reflect subsequent changes in State salary or military pay. Similarly, there is no recalculation upon receipt of new orders.

Employees for whom a stipend has not previously been calculated (under the Training Leave provisions or under orders related to the events of September 11) are required to furnish their agency with confirmation of military pay in the form of a Leave and Earning Statement for the first date of Training Leave at Reduced Pay in order to facilitate calculation of the stipend. The agency must forward a copy of this document to the Office of the State Comptroller.

Existing agency requirements concerning the need for employees to provide copies of orders or drill schedules and copies of Leave and Earning Statements to verify that military duty has, in fact, been performed continue unchanged.

Status

An employee is in Training Leave at Reduced Pay status (not leave without pay status) even if he/she does not actually receive a stipend because military pay exceeds State salary.

Military Leave at Full Pay

In order to be eligible for Training Leave at Reduced Pay an employee must have exhausted all of his/her calendar year 2002 entitlement to 30 calendar days or 22 workdays of military leave with pay under Section 242 of the State Military Law. It does not matter whether the employee was on military duty in connection with the events of September 11 or on military duty not related to the events of September 11 while exhausting that entitlement under Section 242.

Supplemental Military Leave at Full Pay is not available to employees while they are performing military duty covered by the Training Leave at Reduced Pay benefit.

Use of Leave Credits Prior to Beginning to Receive Training Leave at Reduced Pay

Reservists and National Guard members have the option of charging leave credits (other than sick leave) after they have exhausted their entitlement to military leave at full pay under section 242 of the Military Law and prior to utilizing Training Leave at Reduced Pay. This is the same principle that applies to employees going on Military Leave at Reduced Pay for duty related to the events of September 11, 2001.

Once an employee goes on Training Leave at Reduced Pay, regardless of whether this initial use of the benefit is retroactive or prospective, the employee may not opt to charge credits for subsequent covered absences in 2002 until his/her entitlement to Training Leave at Reduced Pay is exhausted.

Biweekly Vacation and Sick Leave Credits

Employees on Training Leave at Reduced Pay for a full biweekly pay period are not eligible to earn biweekly vacation and sick leave credits. Employees on Training Leave at Reduced Pay for less than a full biweekly pay period earn biweekly vacation and sick leave credits if they otherwise meet the requirements to earn biweekly leave credits by being in full pay status for 7 out of 10 days (or a proportionate number of days for employees with work schedules of less than 10 days in a biweekly payroll period). Days of Training Leave at Reduced Pay are not days in full pay status and do not count toward meeting the requirement to earn biweekly leave credits. Leave balances standing to the employee's credit at the time his/her Training Leave at Reduced Pay began are restored upon his/her return from leave except for credits that otherwise would have expired.

Holidays

Employees on Training Leave at Reduced Pay do not receive credit for holidays, including floating holidays, that fall during a period of Training Leave at Reduced Pay. Holiday leave credit earned prior to the period of military leave will be restored upon the employee's return from leave except for credits that otherwise would have lapsed.

When calculating entitlement to Training Leave at Reduced Pay, a holiday that falls during a period of Training Leave at Reduced Pay is counted as a calendar day but not as a workday of entitlement used. A floating holiday is counted as both a calendar day and a workday.

Personal Leave Anniversary Date

If the employee's personal leave anniversary date falls during a period of Training Leave at Reduced Pay, the employee is granted his/her personal leave days and the anniversary date does not change. Personal leave standing to the employee's credit at the time the period of Training Leave at Reduced Pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed.

Vacation Anniversary Date

If the employee's vacation anniversary date falls during a period of Training Leave at Reduced Pay, the employee is granted any vacation bonus days or additional vacation days for which he/she is eligible, subject to applicable maximums, and the vacation anniversary date is not adjusted. Vacation standing to the employee's credit at the time the period of Training Leave at Reduced Pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed.

Income Protection Plan Sick Leave Grant Date

If the employee's Income Protection Plan sick leave grant date falls during a period of Training Leave at Reduced Pay, the grant date is adjusted to the date the employee returns from leave and the employee receives his/her four-day grant on that revised date. Any sick leave standing to the employee's credit when the period of Training Leave at Reduced Pay began will be restored to the employee upon return from Training Leave at Reduced Pay except for credits that otherwise would have lapsed.

Lump Sum Payment

Pursuant to Sections 23.2 and 30.2 of the Attendance Rules, a lump sum payment for accrued and unused vacation and overtime compensatory leave credits cannot be processed until the end of the period of military leave with pay, including periods of Training Leave at Reduced Pay. (Under the Attendance Rules, employees absent for training purposes are ineligible for a lump sum payment regardless of their pay status.)

Overtime Ineligible Employees with Orders of Less Than a Workweek

During a period of Training Leave at Reduced Pay, overtime ineligible employees continue to be subject to the provisions of Sections 21.16 and 28-1.18 for any period of less than a workweek during which such employees are ordered to temporary military duty.

Non-Retroactive Application of Benefit

Once employees meet the eligibility criteria, and have charged any credits (except sick leave) that they elect to use, they should automatically be placed on Training Leave at Reduced Pay when performing military service that is unrelated to the events of September 11, 2001. Agencies should notify employees that once they utilize Training Leave at Reduced Pay, they will be placed on Training Leave at Reduced Pay rather than on military leave without pay for subsequent absences for military duty in 2002 that are not related to the events of September 11, 2001, subject to a maximum of 30 calendar days or 22 workdays.

Retroactive Application of Benefit

Some employees may have already met the eligibility criteria for Training Leave at Reduced Pay prior to the implementation of the benefit and, while on subsequent military duty not related to the events of September 11, 2001, may have gone on military leave without pay or elected to charge appropriate leave credits prior to going on military leave without pay. These employees are entitled to request retroactive application of Training Leave at Reduced Pay as described below. In such cases, leave records must be reconstructed accordingly. In all cases, processing of Training Leave at Reduced Pay requires submission of documentation as described under "Calculation of Benefit" above.

Employees who wish to be placed on Training Leave at Reduced Pay retroactively must notify their agencies no later than June 14, 2002. No requests for retroactive application of the benefit will be honored after that date. Please note that this retroactivity applies only to military absences in calendar year 2002 that are not related to the events of September 11, 2001.

When an employee files a request for retroactive coverage under the benefit, agencies must verify that the employee in question met the eligibility criteria on the dates for which he/she is requesting coverage.

Employees are not obligated to request retroactive coverage back to the first date on which they became eligible for Training Leave at Reduced Pay. HOWEVER, beginning on the first date that employees elect to go on Training Leave at Reduced Pay retroactively, the benefit will be applied to ALL subsequent absences for military service in 2002 that are not related to the events of September 11, 2001 (subject to the 30 calendar day/22 workday maximum).

The Office of the State Comptroller will issue guidelines for processing the necessary payroll adjustments to reflect a retroactive status change from military leave without pay or military leave charged to leave credits to Training Leave at Reduced Pay.

Employees Who Went on Military Leave Without Pay

Eligible employees who went on military leave without pay may request to be placed on Training Leave at Reduced Pay retroactively. Affected employees should be notified immediately of that option. As stated above, they may request that the benefit be applied beginning on the first date that they were eligible or they may request that the benefit be applied starting on a subsequent date on which they performed covered service. However, beginning on the first date that the employee chooses to be placed on Training Leave at Reduced Pay retroactively, the benefit will be applied to any subsequent covered military duty in 2002 until it is exhausted.

If the employee's personal leave anniversary date fell during a period of military leave without pay that is retroactively designated as Training Leave at Reduced Pay, the date should revert to the original personal leave anniversary date and the employee should be credited with personal leave days on that date.

If the employee's vacation anniversary date fell during a period of military leave without pay that is retroactively designated as Training Leave at Reduced Pay, the employee should be credited with vacation bonus days or additional vacation days as appropriate on that date.

Since days of Training Leave at Reduced Pay, like days of leave without pay, do not count toward meeting the 7 out of 10 day requirement to earn biweekly leave credits, no adjustment is required when converting a period of leave without pay to Training Leave at Reduced Pay. A change from military leave without pay to Training Leave at Reduced Pay has no impact on IPP grant dates or on credit for holidays.

Employees Who Elected to Charge Leave Credits

Employees who exercised their option to charge leave credits prior to implementation of this benefit during a period for which they are now eligible for Training Leave at Reduced Pay may leave their decision to charge leave credits unchanged or may elect to be retroactively placed on Training Leave at Reduced Pay. Affected employees should be notified immediately of that option. As stated above, they may request that the benefit be applied beginning on the first date that they were eligible or they may request that the benefit be applied starting on a subsequent date on which they performed covered service. However, beginning on the first date that the employee chooses to be placed on Training Leave at Reduced Pay retroactively, the benefit will be applied to any subsequent covered military duty in 2002 until it is exhausted.

Employees who have a retroactive status change from military leave charged to credits to Training Leave at Reduced Pay will have their leave records reconstructed to reflect Training Leave at Reduced Pay instead of a charge to leave credits. This reconstruction of leave records should occur after full repayment of salary owed has been made.

Employees whose status is changed to Training Leave at Reduced Pay will have credits charged restored, except that leave credits which would have lapsed cannot be restored (for example, vacation credits over 40 days on April 1 in certain bargaining units, personal leave that would have expired on the employee's personal leave anniversary date, floating holidays that would have expired, and holiday leave that would have expired in certain bargaining units).

For employees whose status is changed retroactively from military leave charged to credits to Training Leave at Reduced Pay, IPP dates that fell during that period will need to be adjusted to the date the employee returned from leave and IPP grant days are credited on that date. Also, employees are not eligible to be credited with holidays that fall during a period of Training Leave at Reduced Pay and credit for holidays may need to be adjusted accordingly.

In addition, agencies need to review whether retroactive placement on Training Leave at Reduced Pay affects the employee's eligibility to earn biweekly leave credits each pay period.

Employees who no longer meet the 7 out of 10 day requirement to earn biweekly leave credits in a pay period should have their leave balances adjusted accordingly.

Examples

Example 1 (Retroactive Application – Was on LWOP for Orders NOT Related to 9/11)

An employee was on military leave related to the events of September 11 from September 12 through December 1, 2001. Since he had already used 9 days of his calendar year 2001 entitlement to military leave at full pay under Section 242 prior to September 12, he used the remaining 21 calendar days of leave under Section 242 (thereby reaching the 30 calendar day limit under Section 242 for ordered duty within a calendar year), followed by Supplemental Military Leave at Full Pay. He then opted to charge appropriate credits for several days, and followed this with a period of Military Leave at Reduced Pay until the orders ended on December 1, 2001.

He receives a second set of orders related to the events of September 11 for the period December 20, 2001 through February 20, 2002. He is on Military Leave at Reduced Pay through December 31, 2001; beginning January 1, 2002, he goes on military leave at full pay under Section 242 for 30 calendar days (thereby exhausting his calendar year 2002 entitlement to military leave at full pay under Section 242) and then goes on Military Leave at Reduced Pay until the orders end on February 20, 2002.

He subsequently performs military duty that is not related to the events of September 11 for three weeks in March 2002. He elects not to charge appropriate leave credits and goes on military leave without pay. After the implementation of this benefit, he is then eligible to be placed on Training Leave at Reduced Pay for this military duty (as well as subsequent military duty in 2002 that is not related to the events of September 11 until the benefit maximum is reached).

The employee elects to be placed on Training Leave at Reduced Pay retroactive to his first date of eligibility in March 2002. (Alternatively he could have elected to begin Training Leave at Reduced Pay at any point after his first date of eligibility.) Once the employee elects to be placed on Training Leave at Reduced Pay he must remain in that status for all military duty in 2002 that is unrelated to the events of September 11 until the benefit maximum is reached.

Example 2 (Retroactive Application - Charged Credits for Orders NOT Related to 9/11)

An employee was on military leave related to the events of September 11th from October 1, 2001 through January 31, 2002. He had used 10 calendar days of his Section 242 entitlement to military leave at full pay prior to October 1, 2001 when these orders began. While on these orders, he used the remaining 20 calendar days of his Section 242 entitlement to military leave at full pay for 2001 (thereby reaching the 30 calendar day limit under Section 242 for ordered duty

within a calendar year), used all his Supplemental Military Leave at Full Pay, used appropriate credits at the employee's option and then went on Military Leave at Reduced Pay through December 31, 2001. Since the orders spanned two calendar years, he was returned to full pay status on January 1, 2002 to use 10 calendar days of military leave at full pay under Section 242 (thereby reaching the 30 calendar day limit under Section 242 for orders that span two calendar years) and then went back on Military Leave at Reduced Pay until the orders ended on January 31, 2002.

He subsequently performs military duty that is not related to the events of September 11 for two weeks in February 2002, two weeks in March 2002, and two weeks in April 2002. The 14 days in February and the first six days of the March duty are military leave at full pay under Section 242 (thereby reaching the 30 calendar day limit under Section 242 for ordered duty within a calendar year). The employee elects to charge appropriate credits for the eight days in March and goes on military leave without pay for the two weeks in April.

Upon implementation of this benefit he is then eligible to be placed on Training Leave at Reduced Pay for the eight days of the March duty charged to leave credits and the 14 days in April of military leave without pay (as well as subsequent military duty in 2002 unrelated to the events of September 11 until he reaches the benefit maximum). The employee elects to continue to charge leave credits for the eight days in March and to go on Training Leave at Reduced Pay beginning with the military duty in April. Once the employee elects to be placed on Training Leave at Reduced Pay he must remain in that status for all subsequent military duty in 2002 that is unrelated to the events of September 11 until the benefit maximum is reached.

Example 3 (Non-Retroactive Application)

An employee performs military duty related to the events of September 11 from October 2, 2001 through November 15, 2001, exhausting her 2001 entitlement to military leave at full pay under Section 242 and 15 calendar days of her Supplemental Military Leave at Full Pay. She performs military duty that is not related to the events of September 11th for the months of February and March 2002. While on that duty she exhausts her 2002 entitlement under Section 242 and then goes on military leave without pay. (She is not eligible for Training Leave at Reduced Pay for this period because she has not met the eligibility requirement of having performed military duty related to the events of September 11 in calendar year 2002.)

In June 2002 she performs military duty related to the events of September 11th for four weeks and uses the remaining 15 calendar days of her Supplemental Military Leave at Full Pay followed by appropriate credits at the employee's option and is then placed on Military Leave at Reduced Pay until the orders end.

In August 2002, she performs two weeks of military duty not related to the events of September 11 and is eligible for the first time to be placed on Training Leave at Reduced Pay for this and subsequent military duty in 2002 unrelated to the events of September 11 until she reaches the benefit maximum. The employee may elect to charge appropriate credits prior to beginning Training Leave at Reduced Pay (Training Leave at Reduced Pay automatically begins after military leave at full pay under Section 242 of the New York State Military Law and any credits the employee elects to use are exhausted). However, once Training Leave at Reduced Pay begins, the employee must continue on Training Leave at Reduced Pay for subsequent absences in 2002 unrelated to the events of September 11 until the benefit maximum is reached.

TO: Manual Recipients
FROM: William E. Doyle
SUBJECT: Frequently Asked Questions about Special Military Leave in Connection with the Events of September 11th

A number of questions have been raised about the special military benefit package extended to New York State Executive branch employees federally ordered to military duty or activated by the Governor in connection with the events of September 11th. This advisory memo addresses frequently asked questions.

Status Issues

For any employee who has exhausted available military leave at full pay under Section 242 of the State Military Law, all ordered military duty in connection with the events of September 11th should be counted toward the 30 calendar days or 22 workdays of Supplemental Military Leave at full pay for which such employee is eligible, until the Supplemental Military Leave is exhausted. After an employee has exhausted the Supplemental Military Leave and leave credits which they have elected to use (other than sick leave), the employee should be placed on Military Leave at Reduced Pay for any additional military duty in connection with the events of September 11th. Employees are deemed to be in Military Leave at Reduced Pay status (not leave without pay status) even if they are not eligible to receive a stipend because their military pay equals or exceeds their State salary.

Military Orders Which Began in 2001 and Continue into 2002

During calendar year 2001, employees activated in connection with the events of September 11th first exhausted any remaining days of their 2001 military leave at full pay entitlement under Section 242 before becoming eligible for the special military benefits provided for in the Memoranda of Understanding between the State and the various employee unions. If the period of ordered military duty which commenced in 2001 continues into calendar year 2002 without interruption, on January 1, 2002 employees may be entitled to a portion of their 2002 leave entitlement under Section 242. They would be entitled to leave for 30 calendar days or 22 workdays minus the number of days of their 2001 entitlement which they used during that continuous period of ordered military duty which began in 2001.

For example, an employee used 20 calendar days of his Section 242 entitlement prior to September 11, 2001 and received military orders for the period from September 11, 2001 through March 15, 2002. He first used the remaining 10 calendar days of his 2001 entitlement under Section 242 before being placed on Supplemental Military Leave at full pay. After exhausting Supplemental Military Leave, the employee was placed on Military Leave at Reduced Pay through December 31, 2001. On January 1, 2002, the employee must be returned to full pay status to use 20 calendar days of his 2002 entitlement under Section 242. By operation

of Section 242, he cannot use more than 20 calendar days of his 2002 entitlement because he has already used 10 calendar days of his 2001 entitlement during this continuous period of ordered military duty that began in 2001. After using those 20 calendar days of his 2002 entitlement under Section 242, he is returned to Military Leave at Reduced Pay until his orders end on March 15, 2002. If he subsequently receives new military orders in 2002, he will use the remaining 10 days of his 2002 entitlement under Section 242 and, if the new orders are in connection with September 11, he would then be placed on Military Leave at Reduced Pay.

Attendance and Leave Manual Advisory Memorandum No 01-06 dated September 25, 2001 contains several examples beginning on page five that illustrate this principle.

Further Information

Questions concerning these issues can be referred to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Holders

FROM: George C. Sinnott

SUBJECT: Special Military Leave for Employees Activated in Connection with the Events of September 11, 2001

DATE: September 25, 2001

The Attendance Rules for Employees in New York State Departments and Institutions are being amended under emergency rulemaking authority to provide special military leave benefits for non-managerial/confidential and managerial / confidential employees, respectively, who are federally ordered or ordered by Governor Pataki to active military duty related to the events of September 11, 2001. The benefits are available during the period from September 11, 2001-September 10, 2002. These amendments are consistent with Memoranda of Understanding between the State and CSEA, PEF, DC-37, Council 82, NYSCOPBA, UUP, GSEU, PBA, and NYSPIA.

MILITARY LEAVE WITH PAY (Section 242, New York State Military Law)

Under section 242 of the New York State Military Law, reservists and National Guard members are eligible for paid leave while performing ordered military duty for 30 calendar days or 22 workdays (whichever provides the greater benefit to the employee) in any calendar year or continuous period of absence which spans more than one calendar year. This also applies to reservists and National Guard members holding part-time, per diem or hourly positions. Workdays are calculated based upon the employee's scheduled workdays. Agencies are required to record military leave under both the calendar day and the workday methods, until it is determined which method of calculation provides the greater benefit to the employee.

Reservists who have already used a portion of their 30 calendar day or 22 workday entitlement in 2001 are entitled to be placed on military leave with pay for the remaining portion of the 30/22 days if called to active duty this calendar year. (The employee is again entitled to 30/22 days of paid military leave in 2002 if he/she begins a **new** period of ordered active military duty in 2002.) However, when the period of continuous active military duty spans two calendar years (e.g. 2001-2002) the reservist who has not received 30/22 days of paid military leave in that continuous period of absence is entitled to be placed on paid military leave effective January 1, 2002 to receive the remainder of the 30/22 days of paid military leave for that

continuous period of absence. That remainder is chargeable against the paid military leave allotment for 2002.

SUPPLEMENTAL MILITARY LEAVE

Eligibility

Employees subject to the Attendance Rules or the Memoranda of Understanding with CSEA, PEF, DC-37, Council 82, NYSCOPBA, UUP, GSEU, PBA or NYSPIA who have exhausted military leave with pay provided pursuant to section 242 of the New York State Military Law, and who are called to active duty (other than for training) on or after September 11, 2001, in connection with the events of September 11, 2001, are eligible for supplemental military leave. Supplemental military leave is not available to employees ordered to active military duty in connection with the events of September 11, 2001, after September 10, 2002.

Amount of Leave to be Granted

Eligible employees must be granted a total of 30 calendar days or 22 workdays (whichever provides the greater benefit to the employee) of supplemental military leave with pay upon exhaustion of their military leave with pay entitlement under Section 242 of the New York State Military Law. This supplemental military leave with pay must be granted to employees between September 11, 2001 and September 10, 2002. There is no authorization for granting supplemental military leave beyond this period and the total number of days granted may not exceed 30 calendar days or 22 workdays. The earliest date for which supplemental military leave with pay may be granted is September 11, 2001 to employees who had previously exhausted their entitlement to paid military leave under the Military Law. Employees may receive only one such grant during the period September 11, 2001 through September 10, 2002; there is no authorization for granting supplemental military leave beyond that period. During the periods of supplemental military leave with pay, the employee receives the same attendance and leave benefits, if eligible, as an employee on military leave with pay under the Military Law.

Following exhaustion of military leave with pay under Section 242 of the Military Law and supplemental military leave with pay under the Attendance Rules, employees are entitled to be placed on military leave at reduced pay. If eligible, employees may request use of leave credits, other than sick leave, subject to the prior approval of the appointing authority to use before being placed on military leave at reduced pay.

Impact of Supplemental Military Leave on Accruals

An employee on military leave with pay pursuant to Military Law or on supplemental military leave with pay pursuant to the Attendance Rules or the applicable Memorandum of Understanding earns and accrues leave credits in accordance with the Attendance Rules and is otherwise treated as an employee in full pay status.

Personal Leave Anniversary Date

If an employee's personal leave anniversary date falls during a period of military leave with full pay the employee is credited with personal leave on that date.

Income Protection Plan Sick Leave Grant Date

If an employee's Income Protection Plan sick leave grant date falls during a period of military leave with full pay, the employee is credited with sick leave on that date.

Vacation Anniversary Date

If an employee's vacation anniversary date falls during a period of military leave with full pay, the employee, if eligible, receives bonus vacation days or additional vacation days on that date.

Holidays

Employees on military leave with full pay do not receive credit for holidays that occur during a period of military leave. For employees on military leave with pay, a holiday is counted as a calendar day but not as a workday of the paid military leave entitlement. Employees on military leave with full pay are, however, credited with any designated floating holidays, which fall during the period of military leave.

MILITARY LEAVE AT REDUCED PAY

Eligibility

Employees subject to the Attendance Rules or the Memoranda of Understanding with CSEA, PEF, DC-37, Council 82, NYSCOPBA, UUP, GSEU, PBA and NYSPIA who are called to active duty (other than for training) on or after September 11, 2001, in connection with the events of September 11, 2001, and who have exhausted military leave with pay under the Military Law, supplemental military

leave with pay and any leave accruals which the employee elected to use, are deemed to be on military leave at reduced pay without charge to credits. This includes employees who are eligible but do not in fact receive any income supplement from the State because their military income equals or exceeds their State salary. Military leave at reduced pay is not available to employees ordered to active military duty prior to September 11, 2001.

Employees on military leave at reduced pay will be paid their basic annual State salary as of the time of being activated, plus location pay and geographic differential, reduced by the amount of base pay, plus allowances for food and shelter, received from the United States government for their service. Military leave at reduced pay is available to eligible employees between September 11, 2001, and September 10, 2002.

Use of Leave Credits Prior to Beginning to Receive Military Leave at Reduced Pay

Reservists and National Guard members have the option of charging leave credits (other than sick leave) after they have exhausted their entitlement to military leave at full pay under both the Military Law and the supplemental military leave program and prior to going on military leave at reduced pay. Agencies should make employees aware that it may not be to their advantage in most cases (except where credits may lapse) to elect to charge leave credits prior to going on military leave at reduced pay.

Biweekly Vacation and Sick Leave Credits

Employees on military leave at reduced pay are not eligible to earn biweekly vacation and sick leave credits. However, any balances standing to the employee's credit at the time his/her military leave at reduced pay began are restored upon his/her return from leave except for credits that otherwise would have expired.

Holidays

Employees on military leave at reduced pay do not receive credit for holidays, including floating holidays that fall during a period of military leave. Holiday leave credit earned prior to the period of military leave will be restored upon the employee's return from leave except for credits that otherwise would have lapsed.

Personal Leave Anniversary Date

If the employee's personal leave anniversary date falls during this period of military leave at reduced pay, the employee is granted his/her personal leave days

and the anniversary date does not change. Personal leave standing to the employee's credit at the time the period of military leave at reduced pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed. The amount of personal leave to be credited is based upon the employee's work schedule at the time the military duty commenced.

Vacation Anniversary Date

If the employee's vacation anniversary date falls during this period of military leave at reduced pay, the employee is granted any vacation bonus days or additional vacation days for which he/she is eligible, subject to applicable maximums, and the vacation anniversary date is not adjusted. Vacation standing to the employee's credit at the time the period of military leave at reduced pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed. The amount of vacation to be credited is based on the employee's work schedule when the military leave began.

Income Protection Plan Sick Leave Grant Date

If the employee's Income Protection Plan sick leave grant date falls during this period of military leave at reduced pay, the grant date is adjusted to the date the employee returns from leave and the employee receives his/her four-day grant date on that revised date. Any sick leave standing to the employee's credit when the period of military leave at reduced pay began will be restored to the employee upon return from military duty except for credits that otherwise would have lapsed.

Lump Sum Payment

Lump sum payment for accrued and unused vacation and overtime compensatory leave credits pursuant to sections 23.2 and 30.2 of the Attendance Rules cannot be processed until the end of the period of military leave with pay including periods of military leave at reduced pay.

Examples

The following examples illustrate how supplemental military leave and military leave at reduced pay are granted in connection with military leave pursuant to New York State Military Law. For further information on section 242 of the New York State Military Law, see section 21.12 of the Attendance and Leave Manual.

1) Employee A has used 15 calendar days of her military leave entitlement under the New York State Military Law as of June 15, 2001, and has returned to work. On September 12, 2001 she is called to active duty in connection with the events of

September 11, 2001. She will first use her remaining 15 calendar days of paid leave entitlement under the Military Law for 2001, and then be granted supplemental military leave for 30 calendar days/22 workdays. Upon exhaustion of the supplemental military leave with pay, the employee requests use of her holiday and vacation leave credits. Her credits keep her in full pay status through November 15, 2001. She then is placed on military leave at reduced pay until her release from active duty on November 20, 2001. On March 1, 2002, employee A is called for yearly reserve training duty. She is entitled to 30 calendar days/22 workdays of leave with pay pursuant to section 242 of the New York State Military Law for calendar year 2002.

2) Employee B has used his entire 30 calendar days/22 workdays of military leave with pay pursuant to the Military Law for 2001 as of September 2, 2001 and has returned to work.

On September 15, 2001 he is called to active duty in connection with the events of September 11, 2001. Employee B is immediately placed on supplemental military leave with pay for 30 calendar days. He elects not to use any of his accrued leave credits and is placed on military leave at reduced pay following exhaustion of his supplemental military leave with full pay. He is discharged on December 1, 2001. Employee B will be eligible for 30 calendar days/22 workdays of leave with pay pursuant to Military Law in 2002, but he has exhausted his entitlement to supplemental military leave with full pay should he be recalled to active duty in 2002 in connection with the events of September 11, 2001. He would, however, be eligible for military leave at reduced pay until September 10, 2002.

3) Employee C has used 20 calendar days of his 2001 paid leave entitlement under Military Law as of August 10, 2001, and has returned to work when he is called to active duty in connection with the events of September 11, 2001 from October 1, 2001 through March 2, 2002. He is granted his remaining 10 calendar days of paid military leave under the Military Law for 2001 and is then granted 30 calendar days of supplemental military leave with pay. Employee C requests use of 10 days of vacation following exhaustion of his supplemental military leave with pay. It is granted and he is then placed on military leave at reduced pay through December 31, 2001. On January 1, 2002, Employee C is entitled to 20 calendar days of paid military leave from his 2002 allotment under the Military Law to bring him to a total of 30 calendar days in any one continuous period of absence as provided by the Military Law. (In this example the continuous period of absence began October 1, 2001.) Employee C is then returned to military leave at reduced pay until he is released from active duty on March 2, 2002.

On April 2, 2002 he is ordered to yearly training camp. Employee C is eligible for the remaining 10 days of his 30-day Military Law benefit for 2002 (30 days for calendar year 2002 minus 20 days used during January 2002). Special military leave

benefits do not apply to duty unrelated to the events of September 11, 2001. If later recalled in connection with the events of September 11, 2001, he is not entitled to any supplemental military leave with full pay since he has exhausted his entitlement. However, he would be eligible for military leave at reduced pay.

4) Employee D, whose work schedule is Monday through Friday, has used her entire 30-calendar day/22 workday 2001 Military Law entitlement as of July 6, 2001.

On October 11, 2001 she is called to active duty for two weeks in connection with the events of September 11, 2001. She is immediately granted supplemental military leave with pay for the period of her orders, October 11, 2001 through October 24, 2001. When she returns to work she has used 14 calendar days/10 workdays of her supplemental military leave entitlement.

She receives new orders for military duty in connection with the events of September 11, 2001 for the period November 14 through November 30, 2001. She is granted the remaining 16 calendar days/12 workdays of her supplemental military leave with full pay. The calendar day entitlement ends on November 29, 2001; the workday entitlement ends on November 30, 2001 because the Thanksgiving holiday is not counted as a workday. She is placed on military leave at reduced pay on December 1, 2001.

Should Employee D again be called to active duty in connection with the events of September 11, 2001, she will only be eligible for military leave at reduced pay since she has exhausted her supplemental military leave entitlement. If that period of ordered military duty continues into 2002, she will be eligible for her 2002 military leave with pay entitlement under the Military Law (30 calendar days/22 workdays), and to military leave at reduced pay through September 10, 2002, but has no further entitlement to supplemental military leave.

Questions about this information should be directed to the Attendance and Leave Unit of this Department, at (518) 457-2295.

TO: Manual Holders
FROM: William E. Doyle, Director of Staffing Services
SUBJECT: Leave for Bone Marrow Donors and Organ Donors

Legislation enacted August 2001 (Chapter 214 of the Laws of 2001) amends the New York State Labor Law to authorize leave with pay without charge to accruals for State employees who are either bone marrow donors or organ donors. There is no requirement that employees be subject to the Attendance Rules in order to be eligible for this benefit. The Law is cited on page two of this memo.

Specifically Section 202-b of the Labor Law provides that any employee of the State of New York shall be allowed up to seven workdays of paid leave to undergo a medical procedure to donate bone marrow and up to thirty workdays of paid leave to serve as an organ donor. An employee is required to give at least 14 days prior written notice to the appointing authority of his/her intention to use leave under this section, unless there is a medical emergency attested to by a physician that would require the employee to undergo the medical procedure for which leave is sought within that 14-day notification period. This leave is available each time an employee serves as a bone marrow or organ donor and is in addition to any other leave allowed.

Under this provision, employees are eligible for paid leave without charge to accruals, for either full or partial days, while serving as either a bone marrow donor or an organ donor or recovering from the procedures involved. The leave with pay without charge to accruals includes any necessary travel time, as well as any medical testing or other procedures to determine bone marrow or organ donation compatibility.

The leave is available only to the extent that it conflicts with the employee's work schedule. Employees who undergo bone marrow and organ donation outside their regular work schedule, for example on a pass day, do so on their own time. Employees absent on a holiday for the purpose of bone marrow or organ donation are considered to be observing the holiday and are not granted compensatory time off for bone marrow or organ donation for the holiday.

For employees on part-time or alternative work schedules, a work day is based on the length of the employee's scheduled work day. For example, a half-time employee who is scheduled to work four hours a day and a full-time employee on a compressed workweek who is scheduled to work 10 hours per day four days a week have each used one workday of entitlement under this section if absent for a full work shift.

If an employee uses the leave under this section in less than a full day unit, the leave is calculated as a fraction of the employee's work day. For example, a full-time employee who works eight hours a day and who is absent for four hours for bone marrow donation has used one half-day of his/her entitlement.

The appointing authority may require verification by a physician regarding the purpose and length of each leave requested by the employee under this section.

Any questions on these provisions should be directed to the Attendance and Leave Unit of this Department, at (518) 457-2295.

Chapter 214 of the Laws of 2001 added Section 202-b to the Labor Law, effective August 29, 2001 and was amended by Chapter 465 of the Laws of 2001, effective November 13, 2001, to read as follows:

202-b. Leave for organ or bone marrow donation granted to state employees

1. Any employee of the state of New York shall be allowed up to seven days paid leave to undergo a medical procedure to donate bone marrow and up to thirty days paid leave to serve as an organ donor, provided, however, that an employee of the state of New York shall provide his or her employer with not less than fourteen days prior written notice of an intention to utilize such leave, unless there exists a medical emergency, attested to by a physician, which would require the employee to participate in the medical procedure or organ donation for which the leave is sought within the fourteen day notification period. Such leave shall be in addition to any other sick or annual leave allowed. The employer may require verification by a physician for the purpose and length of each leave requested by the employee to donate bone marrow.

2. An employer shall not retaliate against an employee for requesting or obtaining a leave of absence as provided by this section for the purpose of undergoing a medical procedure to donate bone marrow or serve as an organ donor.

3. The provisions of this section shall not prevent an employer from providing leave for bone marrow or organ donations in addition to leave allowed under any other provision of law. The provisions of this section shall not affect an employee's rights with respect to any other employee benefit otherwise provided by law.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

ATTENDANCE AND LEAVE MANUAL

POLICY BULLETIN NO. 2002-02

TO: Manual Holders
FROM: William E. Doyle, Director of Staffing Services
SUBJECT: Leave for Breast Cancer Screening

Legislation enacted in August 2002 (Chapter 362, Laws of 2002) amended the Civil Service Law to entitle employees to take up to four hours of paid leave annually for screening for breast cancer. This provision will take effect on November 11, 2002. A copy of this legislation is attached.

Specifically, a new section 159-b was added to the Civil Service Law to entitle State officers and employees to paid leave, without charge to leave credits for breast cancer screening. Employees are not required to have Attendance Rules coverage to be granted this leave with pay.

The benefit is available to both male and female employees beginning November 11, 2002 for the current calendar year. Beginning January 1, 2003, the benefit is available for the full calendar year. Leave for breast cancer screening is not cumulative and expires at the close of business on the last day of each calendar year.

Breast cancer screening includes physical exams and mammograms for the detection of breast cancer. Travel time is included in this four hour cap. Absence beyond the four hour cap must be charged to leave credits.

Employees are entitled to a leave of absence for breast cancer screening scheduled during the employees' regular work hours. Employees who undergo screenings outside their regular work schedule do so on their own time. For example, employees are not granted compensatory time off for breast cancer screenings that occur on a pass day or a holiday.

The appointing authority may require satisfactory medical documentation that the employee's absence was for the purpose of screening for breast cancer.

Any questions about these provisions should be referred to the Attendance and Leave Unit of the Department of Civil Service at (518) 457-2295.

Attachment

Chapter 362 of the Laws of 2002 amended the Civil Service Law effective November 11, 2002 by adding a new section, 159-b, to read as follows:

Excused leave to undertake a screening for breast cancer.

1. Every public officer or employee of this state shall be entitled to absent himself or herself and shall be deemed to have a leave of absence from his or her duties or service as such public officer or employee of this state, for a sufficient period of time, not to exceed four hours on an annual basis, to undertake a screening for breast cancer.

2. The entire period of the leave of absence granted pursuant to this section shall be excused leave and shall not be charged against any other leave such public officer or employee of this state is otherwise entitled to.

TO: Manual Holders
FROM: William Doyle
SUBJECT: Impact on Overtime Compensation of Placement on Training Leave at Reduced Pay for Military Duty Not Related to the Events of September 11, 2001

A question has been raised about the impact on overtime compensation of retroactive placement on Training Leave at Reduced Pay for events not related to the events of September 11, 2001.

Under the Overtime Compensation Rules of the Director of the Budget, absences charged to leave credits and leave at full pay, like time worked, count toward meeting the 40-hr threshold in a workweek to be paid at the overtime (time-and-a-half) rate for hours worked over 40, but leave at less than full pay does not count toward that threshold. Therefore, time on Training Leave at Reduced Pay does not count toward meeting that 40-hour threshold.

The Training Leave at Reduced Pay benefit permits an eligible employee to elect to retroactively be placed on Training Leave at Reduced Pay for covered absences. This may impact the employee's eligibility to receive overtime compensation for workweeks in which this occurs.

For example:

In one workweek, an eligible employee on a 40-hour workweek previously charged one day of military duty for training to vacation credits, worked the remaining four days and also worked 12 hours outside his basic workweek. The charge to vacation credits counted toward meeting the 40-hour threshold for overtime pay so the 12 hours were compensated at the time-and-a-half overtime rate.

When the Training Leave at Reduced Pay benefit became available, the employee elected to be retroactively placed on Training Leave at Reduced Pay for the day of military duty previously charged to leave credits. The employee banks the day of vacation and his salary for that day is adjusted from full pay to reduced pay.

In addition, since the day on reduced pay does not count toward meeting the 40-hour threshold for overtime pay, the employee is entitled to 8 hours of straight time and 4 hours of overtime at the time and a- half rate (instead of 12 hours of overtime pay) for the additional 12 hours worked in that workweek. Therefore, the employee now owes the difference between 8 hours at the time- and-a-half rate and 8 hours at the straight time rate. The Office of the State Comptroller will advise agencies how to handle such overpayments.

The same principle applies to employees on a 37.5 hour workweek who earn overtime compensatory time for hours worked between 37.5 and 40. Leave at reduced pay does not count toward meeting the 37.5 hour threshold to earn overtime compensatory time.

It is critical that you review any requests for retroactive placement on Training Leave at Reduced Pay to ascertain whether there will be an impact on overtime compensation (both overtime compensatory time and overtime pay). If there will be such an impact, affected employees should be notified and given the opportunity to withdraw their election if they choose to do so.

As described in Advisory Memorandum No. 2002-03, dated May 2002, once employees go on Training Leave at Reduced Pay, they may not charge credits for subsequent covered absences in 2002 until their entitlement to Training Leave at Reduced Pay is exhausted. Therefore, employees who elected to be placed on Training Leave at Reduced Pay and worked overtime in intermittent pay periods after the date on which the benefit was first applied do not have the option to cancel application of the benefit for selected pay periods in order to preserve overtime payments they have already received.

Furthermore, please ensure that employees electing prospective placement on Training Leave at Reduced Pay understand the impact that election will have on their eligibility for overtime compensation.

Any questions should be directed to the Attendance and Leave Unit of this Department at (518) 457-2295.

TO: Manual Recipients

FROM: Robert W. DuBois, Director
Employee Benefits Division

SUBJECT: Special Military Leave for Employees Activated in Connection with U.S. Support of Operations in Kosovo

DATE: June 30, 1999

The Attendance Rules for Employees in New York State Departments and Institutions were recently amended to add new sections 21.15 and 28-1.17 to provide special military leave benefits for non-managerial/confidential and managerial/confidential employees, respectively, who are federally ordered to active military duty related to the U.S. support of operations in Kosovo during the period of May 1,1999 through May 1,2000. These amendments are consistent with Memoranda of Understanding between the State and CSEA, PEF, DC-37, Council 82, NYSCOPBA, UUP and PBA. Agencies have been notified of these amendments in a June 28, 1999 memorandum from Commissioner George C. Sinnott.

MILITARY LEAVE WITH PAY (Section 242, New York State Military Law)

Under section 242 of the New York State Military Law, reservists and National Guard members are eligible for paid leave while performing ordered military duty for 30 calendar days or 22 workdays (whichever provides the greater benefit to the employee) in any calendar year, and 30 calendar days or 22 workdays (whichever provides the greater benefit to the employee) in any one continuous period of absence. Agencies are required to record military leave under both the calendar day and the workday methods, until it is determined which method of calculation provides the greater benefit to the employee.

A reservist holding a part-time, per diem or hourly position who is eligible for military leave with pay should receive the pay during the first 30 calendar days or 22 workdays of such leave if the employee would have received pay had he/she been present and worked his/her normal hours during that period. Reservists who have already used a portion of their 30 calendar day or 22 workday entitlement in 1999 are entitled to be placed on military leave with pay for the remaining portion of the 30/22

days if called to active duty this calendar year. (The employee is again entitled to 30/22 days of paid military leave in 2000 if he/she begins a **new** period of ordered active military duty in 2000.) However, when the period of continuous active military duty spans two calendar years (e.g. 1999-2000) the reservist who has not received 30/22 days of paid military leave in that continuous period of absence is entitled to be placed on paid military leave effective January 1, 2000 to receive the remainder of the 30/22 days of paid military leave for that continuous period of absence. That remainder is chargeable against the paid military leave allotment for 2000.

SUPPLEMENTAL MILITARY LEAVE

Eligibility

Employees subject to the Attendance Rules or the Memoranda of Understanding with CSEA, PEF, DC-27, Council 82, NYSCOPBA, UUP or PBA, who have exhausted military leave with pay provided pursuant to section 242 of the New York State Military Law, and who are called to active duty (other than for training) on or after May 1, 1999, in connection with U.S. support of operations in Kosovo are eligible for supplemental military leave. Supplemental military leave is not available to employees ordered to active military duty in support of operations in Kosovo prior to May 1, 1999 or after May 1, 2000.

Amount of Leave to be Granted

Eligible employees must be granted a total of 30 calendar days or 22 workdays (whichever provides the greater benefit to the employee) of supplemental military leave with pay upon exhaustion of their military leave with pay entitlement under Section 242 of the New York State Military Law. This supplemental military leave with pay must be granted to employees between May 1, 1999 and May 1, 2000. There is no authorization for granting supplemental military leave beyond this period and the total number of days granted may not exceed 30 calendar days or 22 workdays. The earliest date for which supplemental military leave with pay may be granted is May 1, 1999 to employees who had previously exhausted their entitlement to paid military leave under the Military Law. Employees may receive only one such grant during the period May 1, 1999 through May 1, 2000; there is no authorization for granting supplemental military leave beyond that period. During the periods of supplemental military leave with pay, the employee receives the same attendance and leave benefits, if eligible, as an employee on military leave with pay under the Military Law.

Following exhaustion of military leave with pay under Section 242 of the Military Law and supplemental military leave with pay under the Attendance Rules, employees are entitled to be placed on military leave at reduced pay. If eligible, employees may request use of leave credits, other than sick leave, subject to the prior approval of the appointing authority to use before being placed on military leave at reduced pay.

Impact of Supplemental Military Leave on Accruals

An employee on military leave with pay pursuant to Military Law or on supplemental military leave with pay pursuant to the Attendance Rules or the applicable Memorandum of Understanding earns and accrues leave credits in accordance with the Attendance Rules and is otherwise treated as an employee in full pay status.

Personal Leave Anniversary Date

If an employee's personal leave anniversary date falls during a period of military leave with full pay; the employee is credited with personal leave on that date.

Income Protection Plan Sick Leave Grant Date

If an employee's Income Protection Plan sick leave grant date falls during a period of military leave with full pay, the employee is credited with sick leave on that date.

Vacation Anniversary Date

If an employee's vacation anniversary date falls during a period of military leave with full pay, the employee, if eligible, receives bonus vacation days or additional vacation days on that date.

Holidays

Employees on military leave with full pay do not receive credit for holidays that occur during a period of military leave. For employees on military leave with pay, a holiday is counted as a calendar day but not as a workday of the paid military leave entitlement. Employees on military leave with full pay are, however, credited with any designated floating holidays, which fall during the period of military leave.

MILITARY LEAVE AT REDUCED PAY

Eligibility

Employees subject to the Attendance Rules or the Memoranda of Understanding with CSEA, PEF, DC-37, Council 82, NYSCOPBA, UUP and PBA, who are called to active duty (other than for training) on or after May 1, 1999, in connection with U.S. support of operations in Kosovo and who have exhausted military leave with pay under the Military Law, supplemental military leave with pay and any leave accruals which the employee elected to use, are deemed to be on military leave at reduced pay without charge to credits. This includes employees who are eligible but do not in fact receive any income supplement from the State because their military income equals or exceeds their State salary. Military leave at reduced pay is not available to employees ordered to active military duty in support of operation Kosovo prior to May 1, 1999.

Employees on military leave at reduced pay will be paid their basic annual State salary as of the time of being activated, plus location pay and geographic differential, reduced by the amount of base pay, plus allowances for food and shelter, received from the United States government for their service. Military leave at reduced pay is available to eligible employees between May 1, 1999 and May 1, 2000.

Use of Leave Credits Prior to Beginning to Receive Military Leave at Reduced Pay

Reservists and National Guard members have the option of charging leave credits (other than sick leave) after they have exhausted their entitlement to military leave at full pay under both the Military Law and the supplemental military leave program and prior to going on military leave at reduced pay. Agencies should make employees aware that it may not be to their advantage in most cases (except where credits may lapse) to elect to charge leave credits prior to going on military leave at reduced pay.

Biweekly Vacation and Sick Leave Credits

Employees on military leave at reduced pay are not eligible to earn biweekly vacation and sick leave credits. However, any balances standing to the employee's credit at the time his/her military leave at reduced pay began are restored upon his/her return from leave except for credits that otherwise would have expired.

Holidays

Employees on military leave at reduced pay do not receive credit for holidays, including floating holidays that fall during a period of military leave. Holiday leave credit earned prior to the period of military leave will be restored upon the employee's return from leave except for credits that otherwise would have lapsed.

Personal Leave Anniversary Date

If the employee's personal leave anniversary date falls during this period of military leave at reduced pay, the employee is granted his/her personal leave days and the anniversary date does not change. Personal leave standing to the employee's credit at the time the period of military leave at reduced pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed. The amount of personal leave to be credited is based upon the employee's work schedule at the time the military duty commenced.

Vacation Anniversary Date

If the employee's vacation anniversary date falls during this period of military leave at reduced pay, the employee is granted any vacation bonus days or additional vacation days for which he/she is eligible and the vacation anniversary date is not adjusted. Vacation standing to the employee's credit at the time the period of military leave at reduced pay began will be restored to the employee upon return from leave, except for credits that otherwise would have lapsed. The amount of vacation to be credited is based on the employee's work schedule when the military leave began.

Income Protection Plan Sick Leave Grant Date

If the employee's Income Protection Plan sick leave grant date falls during this period of military leave at reduced pay, the grant date is adjusted to the date the employee returns from leave and the employee receives his/her four-day grant date on that revised date. Any sick leave standing to the employee's credit when the period of military leave at reduced pay began will be restored to the employee upon return from military duty except for credits that otherwise would have lapsed.

Lump Sum Payment

Lump sum payment for accrued and unused vacation and overtime compensatory leave credits pursuant to sections 23.2 and 30.2 of the Attendance

Rules cannot be processed until the end of the period of military leave with pay including periods of military leave at reduced pay.

Examples

The following examples illustrate how supplemental military leave and military leave at reduced pay are granted in connection with military leave pursuant to New York State Military Law. For further information on section 242 of the New York State Military Law, see section 21.12 of the Attendance and Leave Manual.

1) Employee A has used 15 days of her military leave entitlement under the New York State Military Law as of June 15, 1999, and has returned to work. On August 15, 1999 she is called to active duty in connection with U. S. support of operations in Kosovo. She will first use her remaining 15 days of paid leave entitlement under the Military Law for 1999, and then be granted supplemental military leave for 30 calendar days/22 workdays. Upon exhaustion of the supplemental military leave with pay, the employee requests use of her holiday and vacation leave credits. Her credits keep her in full pay status through November 1, 1999. She then is placed on military leave at reduced pay until her release from active duty on November 20, 1999. On March 1, 2000, employee A is called for yearly reserve training duty. She is entitled to 30 calendar days/22 workdays of leave with pay pursuant to section 242 of the New York State Military Law for calendar year 2000.

2) Employee B has used his entire 30 calendar days/22 workdays of military leave with pay pursuant to the Military Law for 1999 as of September 2, 1999 and has returned to work.

On September 15, 1999 he is called to active duty in connection with U.S. support of operations in Kosovo. Employee B is immediately placed on supplemental military leave with pay for 30 calendar days. He elects not to use any of his accrued leave credits and is placed on military leave at reduced pay following exhaustion of his supplemental military leave with pay. He is discharged on December 1, 1999. Employee B will be eligible for 30 calendar days/22 workdays of leave with pay pursuant to Military Law in 2000, but he has exhausted his entitlement to supplemental military leave with pay should he be recalled to active duty in 2000 in connection with U.S. support of operations in Kosovo.

3) Employee C has used 20 calendar days of his 1999 paid leave entitlement under Military Law as of August 10, 1999, and has returned to work when he is called to active duty in connection with U.S. support of operations in Kosovo from October 1, 1999 through March 2, 2000. He is granted his remaining 10 calendar days of paid

military leave under the Military Law for 1999 and is then granted 30 calendar days of supplemental military leave with pay. Employee C requests use of 10 days of vacation following exhaustion of his supplemental military leave with pay. It is granted and he is then placed on military leave at reduced pay through December 31, 1999. On January 1, 2000, Employee C is entitled to 20 calendar days of paid military leave from his 2000 allotment under the Military Law to bring him to a total of 30 calendar days in any one continuous period of absence as provided by the Military Law. (In this example the continuous period of absence began October 1, 1999.) Employee C is then returned to military leave at reduced pay until he is released from active duty on March 2, 2000.

On April 2, 2000 he is ordered to yearly training camp. Employee C is eligible for the remaining 10 days of his 30-day Military Law benefit for 2000. (30 days for calendar year 2000 minus 20 days used during January 2000). He is not entitled to any supplemental military leave with pay if he is later recalled to active duty in connection with U.S. support of operations in Kosovo in 2000 since he has exhausted his entitlement.

4) Employee D, whose work schedule is Monday through Friday, has used her entire 30-calendar day/22 workday 1999 Military Law entitlement as of July 6, 1999.

On August 11, 1999 she is called to active duty for 2 weeks in connection with U.S. support of operations in Kosovo. She is immediately granted supplemental military leave with pay for the period of her orders, August 11, 1999 through August 24, 1999. When she returns to work she has used 14 calendar days/10 workdays of her supplemental military leave entitlement.

She receives new orders for military duty in connection with the U.S. support of operations in Kosovo for the period October 14 through November 1, 1999. She is granted the remaining 16 calendar days/12 workdays of her supplemental military leave with pay entitlement and is then placed on military leave at reduced pay. To summarize, employee D is on supplemental military leave with pay for the period August 11, 1999 through August 24, 1999 and again from October 14, 1999 through October 29, 1999 and is placed on military leave at reduced pay from October 30, 1999 through the end of her orders, November 1, 1999.

Should Employee D again be called to active duty in connection with the U.S. support of operations in Kosovo during 1999, she will only be eligible for military leave at reduced pay since she has exhausted her supplemental military leave entitlement. If that period of ordered military duty continues into 2000, she will be eligible for her 2000 military leave with pay entitlement under the Military Law (30 calendar days/22

workdays), and to military leave at reduced pay through May 1, 2000, but has no further entitlement to supplemental military leave.

Questions about this information should be directed to the Employee Relations Unit of this Department, at (518) 457-2295.

File this material in the section of the manual referenced above.

TO: Personnel Officers

FROM: Karen Burstein, Commissioner

SUBJECT: Military Leave

Chapter 161 of the Laws of 1984 amended §242 of the Military Law with respect to the method of providing for paid absence to public officers and employees who are ordered to military duty as members of the organized militia or a reserve force. Effective June 5, 1984, such persons are to be permitted to absent themselves in connection with ordered military service at full pay for either 30 calendar days or 22 workdays, whichever is greater, during any one calendar year or any continuous period of ordered military service.

For 1984, then, agencies should review leaves granted in connection with military absence during the entire calendar year to assure that affected officers and employees are provided the maximum amount of absence at full salary to which they are entitled. Any salary adjustments resulting from this reconsideration of paid absence granted should be made. If any such employee used accrued leave credits in connection with an absence, a determination should be made as to whether he or she is entitled to the benefit provided by Chapter 161. If so, those leave credits should be restored.

Beginning in 1985, it will be necessary for State departments and agencies to maintain records of absences in connection with ordered military service on both a workday and a calendar day basis for each calendar year or continuous period of absence to insure that each officer and employee is granted the full measure of the paid absence for military duty to which he or she is entitled.

If you have any questions concerning this provision of the Military Law, please contact the Employee Relations Section at (518) 457-2295.

NOTE

SECTION 21.12 AS IT RELATES TO MILITARY LEAVE IS OUT OF DATE. PLEASE CONTACT THE EMPLOYEE RELATIONS SECTION AT (518) 457-2295 WITH QUESTIONS ON MILITARY LEAVE.

Purpose

C-1 C-2 C-3 The purpose of this Section is to confirm the obligation of the appointing authority to grant to employees who are subject to the Attendance Rules any leave of absence with or without pay otherwise required by law and not specifically covered by the Attendance Rules.

Eligibility

Eligibility for the various leaves required by law may be determined by reference to the appropriate statutory authorization. Such eligibility is not restricted to employees subject to the Attendance Rules.

Military Leave

Sections 242 and 243 of the Military Law provide for military leaves of absence for State employees. (A member of the Reserve Officers Training Corps [one who has not received his/her commission] is not eligible for leave with and/or without pay under Sections 242 or 243.)

Military Leave Without Pay

Any State employee entering active military duty is entitled, as a matter of right under the Military Law, to a leave of absence without pay from his/her position while engaged in, and while going to and from, military duty but not exceeding a cumulative total of four years for voluntary service. This is not a matter within the discretion of the appointing authority. The right applies to reservists, volunteers and draftees.

a. Temporary, provisional and seasonal employees are entitled to this leave of absence, but not beyond the time that their service would normally have been terminated for reasons other than their military duty. Their positions do not have to be held open for their return.

b. An exempt class employee is entitled to a leave only until his/her position is filled by permanent appointment. He/She may, however, at the discretion of the appointing authority, be continued on leave and his/her position filled on a temporary basis pending his/her return.

Military Leave With Pay (Section 242 of the Military Law)

1. Only employees who are members of the National Guard or any reserve force who are called to active duty (including attendance at service schools and the initial period of three to six months of active duty required by the Reserve Forces Act) by a competent authority (with or without the consent of the employee) are entitled to military leave with full pay.

2. Military leave with full pay up to 30 calendar days (not work days) may be granted to such employees in any calendar year or in any one continuous period of absence. Not more than 30 calendar days may be granted for a single tour of duty.

3. A reservist may be called to active duty for a five-day period (Monday - Friday), released from such duty for the weekend, and immediately recalled for a second five-day period (Monday - Friday). Such reservist is on military leave with pay for only ten calendar days. If normally required to work on weekends, he/she is expected to report for work during the intervening weekend unless his/her work schedule is changed.

4. A reservist holding a part-time, per diem or hourly position who is eligible for military leave with pay should receive the pay during the first 30 days of such leave that he/she otherwise would have received had he/she been present and worked his/her normal work hours during that 30-day period.

5. An employee is eligible for military leave with pay to attend weekly drills if these drills are held during the employee's regular working hours. Such leave is subject to the 30 calendar day limitation. The 30-day military leave with pay allowance must be used in full day units. Therefore, if an employee is absent on military leave with pay for only a few hours to attend a weekly drill, he/she loses a full day of his/her 30-day entitlement. Whenever practicable the appointing authority should consider revising the employee's shift or pass day schedule to avoid drills during work hours.

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So called "administrative nights" (reserve member expected and encouraged to attend) are not deemed "ordered military duty" under Section 242 of the Military Law and an employee who absents himself/herself for this purpose is not entitled to military leave with pay. The appointing authority can distinguish a regular drill night absence from an

"administrative night" absence by requiring the employee to submit a copy of his/her drill schedule.

6. After exhausting the leave with full pay such employees are entitled to leave without pay as described in "Military Leave Without Pay" above and may use vacation or personal leave credits during such period of leave subject to the prior approval of the appointing authority.

Conflict Between Work and Military Duty Required

1. An employee is entitled to military leave with or without pay if there is a conflict between his/her scheduled work period and the period of military duty, including necessary travel time. If there is such a conflict at any time during the calendar day he/she completes his/her military duty, the employee is not required to report to work upon completion of his/her military duty until the beginning of his/her next regularly scheduled work period the next calendar day. If there is no such conflict on the day he/she completes his/her military duty (including necessary travel time), he/she may be required to report for duty at the beginning of his/her next regularly scheduled work period that same day. If the military duty (including necessary travel time) begins during the employee's work period, he/she is entitled to military leave at such time as would allow him/her to report for military duty. He/She is not entitled to leave for his/her entire work shift except as he/she needs leave for his/her full shift to travel to the place of military duty.

   Example: Employee works 11:00 p.m. to 7:00 a.m. Friday through Tuesday and is scheduled for weekend military drill from Friday at 6:00 p.m. to Sunday at 2:00 p.m. He/She needs two hours to get from place of employment to place of drill. -- Employee is entitled to military leave from 11:00 p.m. Friday to 7:00 a.m. on Sunday and is required to report for duty at 11:00 p.m. on Monday. (Since reporting for duty on Monday will cost the employee another day of his/her 30-day military leave with pay allowance, he/she may prefer to report for work at 11:00 p.m. Sunday.)

   Example: Employee works 4:00 p.m. to 12:00 a.m. Friday through Tuesday and is scheduled for weekend military drill from Friday at 9:00 p.m. to Sunday at 2:00 p.m. He/She needs one hour to get from place of employment to place of drill. -- Employee

is entitled to military leave from 8:00 p.m. Friday to 12:00 a.m. Sunday but is required to report for work at 4:00 p.m. on Sunday since there is no conflict between military duty (including travel time) and working period on Sunday.

Example: Employee works 4:00 p.m. to 12:00 a.m. Monday through Friday and is scheduled for military drill from 7:00 p.m. to 10:00 p.m. Wednesday evening. Employee needs 1 hour to get from place of employment to place of drill. -- Employee is entitled to military leave from 6:00 p.m. to the end of his/her work shift at 12:00 a.m. and is required to report for work at 4:00 p.m. Thursday.

Example: Employee works 8:30 a.m. to 5:00 p.m. Monday through Friday and is scheduled for military drill from 6:00 p.m. Friday to 6:00 p.m. Sunday. Employee needs 2 hours to get from place of employment to place of drill. -- Employee is entitled to military leave from 4:00 p.m. to 5:00 p.m. on Friday and is required to report for work at 8:30 a.m. on Monday.

Example: Employee works 12:00 a.m. to 8:00 a.m. Friday through Tuesday and is scheduled for military drill from Friday at 4:00 p.m. to Sunday at 4:00 p.m. Employee needs 3 hours to get from place of employment to place of drill. -- Employee is entitled to military leave from 12:00 a.m. Saturday to Sunday at 8:00 a.m. and is required to report for work at 12:00 a.m. on Monday.

Example: Employee works 8:30 a.m. to 5:00 p.m. Monday through Friday and is scheduled for military drill from 8:00 p.m. Friday to 6:00 p.m. Sunday. Employee needs 2 hours to get from place of employment to place of drill. Since there is no conflict between the employee's scheduled work period and the period of military drill, including necessary travel time, there is no need for nor entitlement to military leave with or without pay.

Example: Employee works 8:30 a.m. to 5:00 p.m. Monday through Friday and is scheduled for an extended period of military reserve duty from 1:00 p.m. Saturday to 11:00 a.m. on the third succeeding Sunday (approximately two weeks), including necessary travel time. Beginning with Monday at 8:30 a.m. when the conflict with his/her scheduled work period begins, the employee remains on military leave until completion of his/her military duty at 11:00 a.m. on the third succeeding Sunday--a

total of 14 calendar days--and reports for work at 8:30 a.m. the following day, Monday.

2. In some cases, an employee may be able to work his/her normal shift, have time to travel to and from his/her place of military drill without having a conflict between his/her scheduled work period and the period of drill (e.g., work period from 11:00 p.m. to 7:00 a.m. and military drill, including travel time, from 8:00 a.m. to 10:00 p.m.), not be entitled to any military leave and be required to report for work at the beginning of his/her next regularly scheduled work period. However, where denial of any military leave in such cases would constitute a severe hardship for the employee or would not be acceptable to the employer because of the effect on the employee's ability to perform his/her normal and regular duties, a period of military leave may be approved with the understanding that, where military leave with pay is involved, an appropriate charge (in full day units) will be made against the employee's annual allowance of 30 calendar days.

Leave Credits

1. Credits earned and unused at the time of entry into military service are restored upon return to State service provided payment has not been made for such credits.

2. An employee on military leave with full pay, who is covered by the Attendance Rules, earns and accrues credits in accordance with the Attendance Rules.

   An employee on military leave without pay does not earn credits.

3. For information on vacation "bonus" days and military leave, see "Military Leave of Absence" under Section 21.2, "Vacation," of this Manual.

4. For the effect of military leave on the anniversary date for personal leave, see "Crediting of Personal Leave" under Section 21.6, "Personal Leave," of this Manual.

5. See Section 23.2, "Payments For Accruals Upon Entry Into Armed Forces," of this Manual.

Leave for Veterans on Memorial Day, Independence Day and Veterans' Day

1. Section 63 of the Public Officers Law provides that certain veterans (as defined by that Section) shall be granted leave with pay without charge to credits on Memorial Day and Veterans' Day.

   Section 249 of the Military Law provides for leave with pay without charge to credits on July 4th (Independence Day) for employees who have served as members of the National Guard, Naval Militia or the Reserve Corps during peacetime and who have been honorably discharged therefrom.

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2. State employees are not usually affected by the provisions of these laws because these days are holidays provided by the Attendance Rules, except when they fall on a Saturday. (See Section 21.1, "Sundays and Holidays," of this Manual.) In the event one of these days does fall on a Saturday, State employees are again not normally affected by the provisions of these laws because most of them do not have work schedules which include Saturdays.

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3. When Memorial Day, Independence Day or Veterans' Day falls on a Saturday and is not observed as a holiday under the Attendance Rules, an eligible veteran or former reservist who works on that day is entitled to a day off in lieu of a holiday as though he/she had worked on a day observed as a holiday under the Rules. If he/she is absent from work on vacation, sick leave, personal leave or against overtime credits, his/her absence should be charged as a holiday and not against his/her credits.

4. It is not necessary that eligible veterans be covered by the Attendance Rules to be entitled to the provisions of Section 63 of the Public Officers Law or Section 249 of the Military Law.

Leave for War Veterans to Continue Study

Section 246 of the Military Law provides that certain war veterans, as defined by that Section, shall be granted a leave of absence without pay to continue the pursuit of studies or to take a refresher or retraining course for the period of such a course of study, not to exceed four years.

Time Off to Vote (Section 226 of the Election Law)

1. Pursuant to Section 226 of the Election Law, all employees who are registered voters and who do not have sufficient time to vote outside of working hours (see below) may take off that amount of time which, when added to the voting time available outside working hours, will enable them to vote. Up to two hours of such leave shall be granted with pay without charge to any leave credits. Additional time off for employees who are covered by the Attendance Rules should be charged to vacation, overtime compensatory time credits or personal leave as approved by the appointing authority.

2. Four consecutive hours either between the opening of the polls and the beginning of the employee's work shift or between the end of his/her work shift and the closing of the polls is considered sufficient time to vote.

3. Time off to vote shall be taken at the beginning or end of the work shift, as designated by the appointing authority, unless the appointing authority and the employee mutually agree on another time.

4. Time off to vote applies to general elections, special elections called by the Governor, primary elections, town and village elections, but not to school elections.

5. If an employee requires time off to vote, he/she must notify the appointing authority not more than ten nor fewer than two working days before the day of the election that he/she requires such time off to vote in accordance with the provisions of Section 226 of the Election Law.

6. Not fewer than ten working days before every election, the appointing authority must keep posted conspicuously in the place of work, where it can be seen as employees come or go to that place of work, a notice setting forth the provisions of Section 226 of the Election Law.

7. See "Election Day" under Section 21.1, "Sundays and Holidays," of this Manual.

Sick Leave for Per Diem Employees

Section 18(c) of the Labor Law provides that per diem employees in the competitive, noncompetitive or labor class, who are not subject to the Attendance Rules, may, at the discretion of the appointing authority, be granted sick leave with pay for not more than 30 days in any year.

Vacation for All Employees

Section 71 of the Public Officers Law authorizes an appointing authority to grant to any employee, who has been employed at least one year and who is not subject to the Attendance Rules, a vacation with pay of not fewer than two weeks in each year and such further time as the duties and length of service and other circumstances may warrant.

Negotiating Units:

Professional, Scientific and Technical
Services Unit Article 12.15
Rent Regulation Services Unit Article 12.16

Effect:

Employees may, upon request, be allowed to attend conferences or seminars of recognized professional organizations without loss of pay or charge to vacation or personal leave or other time and leave accruals. For employees to be eligible for this leave, the conference or seminar must be directly related to their professions or professional duties (i.e., their professional discipline) although they need not be members of the sponsoring organization.

An eligible employee is entitled to leave with pay to attend professional conferences or seminars up to a maximum of two days for PS&T Unit employees and three days for RRSU employees (including travel time) each year of the applicable negotiated agreement subject to prior approval and provided that the leave shall not interfere with the proper conduct of governmental functions. Employing agencies are authorized to restrict these leaves for any conference or at any one time to 10% of the appropriate profession in the "operating unit" but may approve leave for more than 10% of such staff.

These contract items do not guarantee that every eligible employee will receive two or three days' leave with pay annually to attend professional conferences or seminars. Because of the timing of employee requests for the leave, the need to conduct governmental functions and imposition of the 10% of staff limitation, some employees may receive less than the maximum number of days allowed. Whenever possible and as required, employing agencies should take appropriate steps to ensure that the leave is equitably distributed among eligible employees in the operating unit.

Employees Directed to Attend Professional Conferences

The subject contract items do not prohibit employing agencies from directing attendance at professional conferences or seminars in excess of two or three days annually where attendance is in the nature of a duty assignment.

Negotiating Unit:

Professional, Scientific and Technical Services
Unit Article 12.16

Effect:

Under Article 12.16(a), employees shall, upon request, be allowed time off with pay and without charge to leave credits to take one professional examination each fiscal year. If the examination is administered in several parts, the parts must be treated as a single examination. The examination must be in the employee's professional discipline, and all time off allowed for travel to and from the place of the examination must be charged to leave credits.

Under Article 12.16(b), if an employee is scheduled to take a professional examination for which time off will or may be approved without charge to leave credits as provided by this Article, and if the employee is scheduled to work a shift which ends within eight hours of the commencement of the examination, reasonable effort must be made by the employing agency to adjust the employee's work schedule or allow the employee adequate time off charged to leave credits. Work schedule adjustments and time off allowances must take into consideration agency needs to provide services and general program requirements.

If it is not possible to grant time off as contemplated by Article 12.16(b) because of the need to maintain essential services, the employee may not be allowed any form of compensatory time off nor granted any special relief or consideration. The need to schedule overtime, however, may not be used as a reason for denying time off under this item.

"Professional examination," as used in this contract item, includes professional licensing or certification examinations but does not include school examinations regardless of whether the employee is receiving tuition assistance from the employing agency. Although an employee may be allowed time off to take a school examination or to attend graduation exercises without charge to leave credits pursuant to an agency educational leave, scholarship grant or tuition assistance program, the employee may not be granted time off pursuant to this contract item.

The employee's "professional discipline" as used in this contract article is intended to encompass the professional area in which the individual is employed and licensing or certification examinations that are relevant to this professional discipline.

Negotiating Units:

Administrative Services Unit Article 4
Institutional Services Unit Article 4
Operational Services Unit Article 4
Professional, Scientific and
Technical Services Unit Article 4.7
Rent Regulation Services Unit Article 4.7
Security Services Unit Article 5.3
Security Supervisors Unit Article 5.3

Effect:

The following special provisions apply to all employees regardless of negotiating unit.

Holidays and Pass Days

Employee organization leave may not be approved for employee organization activities conducted on holidays or pass days. Employees who would normally be entitled to employee organization leave because of participation in employee organization or joint labor/management activities are not entitled to the leave nor to any form of overtime or compensatory time off for travel to or attendance at such activities on holidays or pass days.

Eligibility of Employees in "Other" Negotiating Units

An employee may not be granted employee organization leave except as provided by the agreement negotiated for the employee's negotiating unit. For example, an employee in the Administrative Services, Operational Services or Institutional Services Units may not be granted employee organization leave to attend a Council 82 convention although the employee may be authorized to attend such convention as a Council 82 delegate. An employee in the Security Services Unit may not be granted employee organization leave to participate in "local" level negotiations as a representative of CSEA although the employee may be authorized to serve as a member of the CSEA negotiating team. In each example, the employee may be granted time off to participate in the employee organization activity but must charge the time off to appropriate leave credits.

Leave for Social Activities

The State policy with respect to social activities such as picnics, holiday parties, retirement and service award luncheons, etc., is as follows:

1. Such activities are not specifically treated under any of the current employee organization agreements with the State. They are, however, matters of accepted practice by many employers and may be carried on by State agencies as a management prerogative.

2. The principal executive officer of each agency has the authority to determine that these activities would be beneficial to employee relations and in the best interests of the department or agency. If the agency head so determines, he or she may grant appropriate time off to employees of the agency without charge to accumulated leave credits. It should be clearly understood that this policy applies only to those activities sponsored by the agency or where the agency conducts an activity with the cooperation of the certified or recognized employee organization.

3. Where there is more than one certified or recognized employee organization in an agency, the agency should carefully weigh possible problems before accepting the cooperation of the employee organizations.

4. Absence should be charged to leave credits where the picnic or service function is sponsored or conducted as an employee organization affair.

5. This privilege should be applied uniformly and prudently throughout the agency.

Negotiating Units:

Administrative Services Unit Article 4
Institutional Services Unit Article 4
Operational Services Unit Article 4

Effect:

Employees in the Administrative Services, Institutional Services, and Operational Services Units are eligible for leave with pay to attend CSEA Statewide delegate meetings, meetings of CSEA's Board of Directors, directors' committee meetings and meetings of CSEA's standing, ad hoc and special committees. They are also eligible for leave with pay to investigate and process grievances, to participate in Statewide negotiations, and to attend joint meetings of management and employees.

Procedures for Implementing Employee Organization Leave, Article 4 of Negotiated Agreements for Administrative, Operational and Institutional Units

I. Administrators of Employee Organization Leave

The Governor's Office of Employee Relations administers employee organization leave for Statewide negotiations, Statewide Joint Labor/Management Committees and investigation and processing of grievances. The Governor's Office of Employee Relations has delegated administration of employee organization leave for Board of Directors' meetings, Committee meetings and Delegates' meetings to the Director of Work Force Planning Services, Department of Civil Service. CSEA's employee organization leave administrator is the Director of Contract Administration, CSEA.

II. General Considerations

Employee organization leave shall be leave with pay. Article 4 of the State-CSEA agreements provides for employee organization leave only for employees in the Administrative, Institutional and Operational Services Units.

Travel time shall mean actual and necessary travel time during the hours the employee would normally work, not to exceed five hours each way. The amount of travel time will be determined by each employing agency.

No overtime or compensatory time off may be approved for travel to or attendance at a meeting, or for investigating or processing a grievance.

Employees who travel to or attend a meeting or who are investigating or processing a grievance on a regular day off or pass day or holiday shall not be granted any time off in lieu thereof.

Employee organization leave should be requested through and approved in advance by the employing agency and such approval is, in all cases, subject to reasonable operating needs.

Unless otherwise indicated, the term "year" shall mean the contract year beginning on April 1 and ending on March 31.

III. CSEA Delegate Meetings

1. Eligible State Employees

a) CSEA delegates
b) Members of Board of Directors
c) Sergeants-at-Arms and assistants
d) Members of Convention and Credentials Committees
e) Alternates or proxies who actually attend instead of an otherwise eligible employee.

2. Number of Eligibles

Approval of requests for employee organization leave for delegate meetings must be consistent with the need to maintain essential services. Subject to such approval, each local is entitled to delegate strength equal to the number of votes the local, or State division local, is entitled to cast. Additional employees may, at the discretion of the appointing authority, be granted time off with charge to leave credits to attend this meeting.

The Director of Contract Administration, CSEA, will supply the Director of Work Force Planning Services, Department of Civil Service, with a list of CSEA locals composed of State employees and the vote count for each local, along with the names of the members of the Board of Directors, the Convention Committee, the Credentials Committee, the Sergeants-at-Arms and assistants. The Director of Work Force Planning Services, Department of Civil Service, will supply each agency with a list of CSEA locals composed of State employees and the vote count for each local. Other employees who are granted time off at the discretion of the employing agency must charge accrued leave credits.

3. Amount of Leave

The maximum employee organization leave permissible for a delegate meeting shall be five days or a lesser amount that is actually used plus travel time.

4. Procedure for Requesting Leave

Requests for employee organization leave to attend approved delegate meetings shall be filed by the employee or his/her local president in writing at least five days in advance of these meetings, specifying the total amount of leave requested including travel time. Local presidents should be asked to verify the status of employees as delegates. Requests shall be made to the official the agency may designate. Lists of members of the CSEA Board of Directors, committee members, and Sergeants-at-Arms and assistants will be sent to the appropriate employing agencies by the Director of Work Force Planning Services and may be used to verify eligibility for employee organization leave.

5. Notification of Meetings and Authorization for Leave

a. Notice of Meetings

The Director of Work Force Planning Services will advise agencies in advance of delegate meetings for which employee organization leave may be granted.

b. Tentative Approval

Agencies will grant tentative approval of employee requests for employee organization leave subject to telephone verification by the Director of Work Force Planning Services. The Director of Policy Analysis and Research will notify agencies of appropriate charges following the meeting.

c. Record of Attendance and Lists of Eligibles

No later than 20 working days following the delegate meeting, CSEA's Director of Contract Administration will forward to the Director of Work Force Planning Services the names, agencies and official work stations (e.g., main office, district office or geographic location or institutional facility) of delegates and other employees who attended the meeting and are eligible for employee organization leave. Listing of the delegates and other employees will be by chapter.

d. Authorization

The Director of Work Force Planning Services will notify each agency of the employees who are eligible for and may be granted employee organization leave. This notification will serve as written authorization for final approval by the employing agencies of the employee organization leave.

Employees who may have received tentative approval for employee organization leave to attend the delegates meeting will be required by their agencies to charge their time off to leave credits if their names do not appear on the written authorization received from the Director of Work Force Planning Services.

e. Disputes

Employees who challenge the accuracy of the written authorizations and believe they are entitled to employee organization leave must refer these challenges through their local presidents or directly to CSEA's Director of Contract Administration. Adjustments in written authorizations for employee organization leave may not be made by any agency except upon written notice from the Director of Work Force Planning Services.

IV. Statewide Negotiations, Section 4.8(b)

1. Eligible State Employees

Those employees certified to the agencies by the Governor's Office of Employee Relations.

2. Amount of Leave

Employee organization leave pursuant to Section 4.8(b) is subject to reasonable operating needs. Leave may be granted for time actually and reasonably spent for these negotiations, including travel time and time approved for preparation meetings.

3. Request for Leave

Requests for leave shall be filed at least 24 hours in advance in writing by the eligible employee to the official the agency designates.

4. Verification

a. List of Eligibles

CSEA's Director of Contract Administration will submit to the Director of Employee Relations a list of all CSEA members of the various Statewide CSEA negotiating teams (and revisions thereto), including title, negotiating unit, agency and official work station (e.g., main office, district office or geographic location or institutional facility). These lists will be sent to the appropriate employing agencies.

b. Tentative Approval

Agencies will grant tentative approval for employee organization leave.

c. Record of Attendance

The chief State negotiator for each team will certify immediately following each session a record of attendance by the CSEA team at such session including names of participants, their agencies and locations, and the beginning and ending times of the session including authorized preparation time. The record of attendance must bear the certifying signature of the chief State negotiator or chairperson.

d. Authorization

The Director of Employee Relations will forward authorization for employee organization leave to the affected agencies.

e. Records

The Director of Employee Relations will maintain a record of the leave used by requesting from each agency the travel time and the total time approved for each employee for each session. These totals must be submitted in writing upon receipt of authorization to approve the leave.

V. Joint Labor/Management Committees, Section 4.10

A. Statewide Committees

1. Eligible State Employees

Those employees certified to the agencies by the Director of Employee Relations.

2. Amount of Leave

Employee organization leave pursuant to Section 4.10 is subject to reasonable operating needs. Leave may be granted for time actually and reasonably spent in participating in jointly scheduled meetings of joint labor/management committees plus travel time.

3. Request for Leave

Requests for employee organization leave should be filed by eligible employees in writing at least five days in advance with the official the agency designates.

4. Verification

a. List of Eligibles

CSEA's Director of Contract Administration will submit to the Director of Employee Relations a list of all CSEA members of committees (and revisions thereto), including title, agency and official work station (e.g., main office, district office or geographic location or institutional facility).

b. Notification of Meetings and Record of Attendance

Immediately following each meeting, the State chairperson will notify the Director of Employee Relations of the date, starting and ending times and record of attendance.

c. Tentative Approval

Agencies may grant tentative approval for employee organization leave, including travel time, subject to the need to maintain essential services.

d. Authorization

The Director of Employee Relations will authorize the approval of employee organization leave by the agencies on the basis of the record of attendance.

e. Records

The Director of Employee Relations will maintain a record of the leave used by requesting from each agency the travel time and the total time approved for each employee for each meeting. These totals must be submitted in writing upon receipt of authorization to approve the leave.

B. Departmental Committees

1. Amount of Leave

Employee organization leave is subject to reasonable operating needs. Leave may be granted for travel time and for time actually and reasonably spent in participating in jointly scheduled meetings of joint labor/management committees which are established on a departmental basis.

2. Requests for Leave

Requests for employee organization leave should be filed by eligible employees in writing at least three days in advance with the official the agency designates.

3. a. Authorization

The chairperson of each agency committee may approve the authorization of employee organization leave on the basis of the record of attendance.

b. Records

The chairperson of each agency committee will maintain a record of the total amount of leave used for meetings of departmental committees; this record will be submitted at the end of each fiscal year.

VI. Investigation and Processing of Grievances, Section 4.9

CSEA's Director of Contract Administration will notify the Director of Employee Relations in writing of the names of employees who are authorized by CSEA to investigate and process grievances. Requests for such leave should be made in advance and such leave is subject to reasonable operating needs. Use of employee organization leave for investigation of claimed grievances and processing of grievances is not subject to verification or final authorization by the Director of

Employee Relations. Agencies are authorized to approve use of such leave and may refer questions or problems to their designated agency liaison in the Governor's Office of Employee Relations. Agencies will keep a record of employee organization leave used for investigating and processing of grievances, including employee's name, title, negotiating unit and amount of leave used.

VII. Board of Directors and Committee Meetings, Section 4.8

1. Eligible State Employees

a) Members of Board of Directors and its committees.
b) Members of standing, ad hoc and special committees.
c) Alternates or proxies who actually attend in place of otherwise eligible employees.

2. Number of Eligibles

Employee organization leave pursuant to Section 4.8 is subject to reasonable operating needs.

3. A maximum of 750 days each contract year may be granted for the use of employees attending CSEA standing, ad hoc and special committees and meetings of the Board of Directors and its committees. In addition, actual and necessary travel time, not to exceed five hours each way, shall be granted.

4. Procedure for Requesting Leave

Request for employee organization leave to attend Board and committee meetings must be filed in writing at least five days in advance of such meetings specifying the total amount of leave requested, including travel time. Request shall be made to such officials as the agency may designate.

5. Notification of Meetings and Authorization for Leave

a. Lists of Eligibles

CSEA's Director of Contract Administration will submit to the Director of Employee Relations a list of the members of the Board of Directors and all committees including agency and official work station (e.g., main office, district office or geographic location or institutional facility). The Director of Employee Relations will inform each affected agency of the names of its employees who are included on the list. CSEA's Director of Contract Administration will inform the Director

of Employee Relations of changes in the list and the Director will forward such changes to the affected agencies.

b. Notice of Meetings

CSEA's Director of Contract Administration will inform the Director of Employee Relations and the Director of Work Force Planning Services of all meetings of the Board of Directors, directors' committees and standing, ad hoc and special committees, at least five days in advance of the meetings. Upon receipt of requests from the affected employees, agencies will grant tentative employee organization leave for the specified meeting. Because agencies will not have received prior notification, verification of the dates and times of meetings to be held and the names of employees scheduled to attend may be obtained prior to the meeting by calling the Employee Relations Section of the Department of Civil Service.

c. Verification and Adjustments

No later than 30 working days following the meeting, CSEA's Director of Contract Administration will forward to the Director of Work Force Planning Services the names and official work stations of employees who attended the meeting including employees who attended as proxies. The Director of Work Force Planning Services will forward this information to the agencies as official confirmation of charges to employee organization leave.

d. Records

The Director of Work Force Planning Services will maintain records of the amount of time used by committee and employee name.

e. Disputes

Employees who challenge the accuracy of authorizations and believe they are entitled to employee organization leave must refer such challenges through their local presidents or directly to CSEA's Director of Contract Administration. No additional employee organization leave may be approved by any agency except upon notice from the Director of Work Force Planning Services.

VIII. Local Officers and CSEA or Local Representatives

CSEA's Director of Contract Administration will forward quarterly to the Director of Employee Relations a list of CSEA State officers and directors, local officers and other employees eligible for employee organization leave relating to internal union affairs, e.g., delegates' meetings, union committees, etc.

A separate list will be forwarded quarterly and updated monthly by CSEA to the Director of Employee Relations listing those employees designated as grievance representatives and eligible for employee organization leave for this purpose.

Both lists will show names, employing agencies and official work station (e.g., main office, district office or geographic location or institutional facility) and appropriate mailing address.

The contract also provides that the State, at its discretion, may deny employee organization leave for an employee whose name does not appear on these lists. The Director of Employee Relations will send lists and updates to the Director of Work Force Planning Services.

IX. Verification of Status and Authority of CSEA Representatives

State agencies having questions concerning the identity of local representatives or other CSEA representatives or the authority of such persons to speak or act for CSEA on grievances, contract administration or other matters should refer such questions to the Director of Employee Relations. As required, CSEA's Director of Contract Administration will provide the Director of Work Force Planning Services with written certification of the authority and status of such representatives.

Negotiating Unit:

Professional, Scientific and Technical
Services Unit Article 4.7

Effect:

Employees in the Professional, Scientific and Technical Services Unit are eligible for leave with pay to attend PEF Statewide delegate meetings, meetings of PEF's Board of Directors and meetings of PEF's standing, ad hoc and special committees. They are also eligible for leave with pay to investigate and process grievances, to participate in Statewide negotiations and to attend joint labor/management meetings.

Procedures for Implementing Employee Organization Leave, Section 4.7, Article 4 of Negotiated Agreement for the PS&T Unit

I. Administrator of Employee Organization Leave

The Governor's Office of Employee Relations administers employee organization leave for this bargaining unit.

II. General Considerations

Employee organization leave shall be leave with pay. Section 4.7 of the State-PEF agreement provides for employee organization leave for employees in the PS&T Unit.

Travel time shall mean actual and necessary travel time during the hours the employee would normally work, not to exceed five hours each way. The amount of travel time will be determined by each employing agency.

No overtime or compensatory time off may be approved for travel to or attendance at a meeting, or for investigating or processing a grievance. Employees who travel to or attend a meeting or who are investigating or processing a grievance on a regular day off or pass day or holiday shall not be granted any time off in lieu thereof.

Employee organization leave must be requested through and approved in advance by the employing agency and such approval is, in all cases, subject to reasonable operating needs.

Unless otherwise indicated herein, the term "year" shall mean the contract year beginning on April 1 and ending on March 31.

III. Board of Directors and Committee Meetings, Section 4.7(a)

A. Authorization for Leave

Absences to attend Board and PEF committee meetings that are requested in advance by the employee and approved by the employing agency shall be initially charged to appropriate leave credits. The employing agency shall restore such leave credits to the employee immediately upon receipt of notification from the Governor's Office of Employee Relations verifying such employee's attendance at a Board or committee meeting.

B. Disputes

Employees who challenge the accuracy of authorizations and believe they are entitled to employee organization leave must refer such challenges through PEF. No additional employee organization leave may be approved by any agency except upon notice from the Governor's Office of Employee Relations.

IV. PEF Delegate Meetings, Section 4.7(b)

The State shall grant employee organization leave for one PEF delegate meeting in each year of the agreement.

A. Amount of Leave

The maximum employee organization leave permissible for a delegate meeting shall be three days or such lesser amount as is actually used.

B. Authorization for Leave

Absences to attend delegate meetings that are requested in advance by the employee and approved by the employing agency shall be tentatively charged as employee organization leave. Following the meeting, the Governor's Office of Employee Relations will send notices to each agency verifying employees' eligibility for employee organization leave. This notification will serve as written authorization for final approval by the employing agencies.

Employees who may have received tentative approval for employee organization leave to attend the delegate meeting will be required by their agencies to charge their time off to appropriate leave credits if their names do not appear on the written authorization received from the Governor's Office of Employee Relations.

C. Disputes

Employees who challenge the accuracy of the written authorizations and believe they are entitled to employee organization leave must refer challenges through PEF. Adjustments in written authorizations for employee organization leave may not be made by any agency except upon written notice from the Governor's Office of Employee Relations.

V. Statewide Negotiations, Section 4.7(c)

A. Eligible State Employees

The Governor's Office of Employee Relations will send notices to employing agencies prior to the start of negotiations including the names of employees and their eligibility to participate in the conduct of negotiations for a successor agreement.

B. Authorization for Leave

Eligible employees who absent themselves to attend negotiating sessions shall initially charge the absence to appropriate leave credits. The Governor's Office of Employee Relations will send notices monthly to the affected agencies giving the dates and amounts of employee organization leave approved for eligible employees to attend Statewide negotiating sessions. Such notice shall serve as written authorization for employee organization leave and agencies shall restore leave credits charged for the covered dates and times upon receipt of the notification.

VI. Joint Labor/Management Committees, Section 4.7(c)

A. Statewide Committees

Absences to attend Statewide joint labor/management committee meetings that are requested in advance by the employee and approved by the employing agency shall be initially charged to appropriate leave credits. The Governor's Office of Employee Relations will send notices monthly to employing agencies including names of eligible employees, dates of meetings and amounts of employee organization leave to be granted. These notices shall serve as written authorization for employee organization leave and agencies shall restore leave credits charged for the covered dates and times upon receipt of the notification.

B. Agency/Institution/Local Joint Labor/Management Committees

Reasonable numbers of PEF designees will be granted reasonable amounts of employee organization leave to participate in meetings of joint labor/management committees which are established at the facility or the department/agency level. Such employee organization leave is subject to advance approval by the employing agency based on operating needs.

VII. Investigation and Processing of Grievances, Section 4.7(c)

PEF will notify the Director of Employee Relations in writing of the names of employees who are authorized by PEF to investigate and process grievances. The Governor's Office of Employee Relations will provide such list to employing agencies quarterly.

Use of employee organization leave for investigation of claimed grievances and processing of grievances is not subject to verification or final authorization by the Governor's Office of Employee Relations. Agencies are authorized to approve use of such leave and may refer questions or problems to their designated agency liaison in the Governor's Office of Employee Relations.

Certain conditions and limitations which apply to the use of employee organization leave, as outlined in the Governor's Office of Employee Relations November 1979 memorandum to State agencies, continue during the duration of the 1988-91 State-PEF Agreement. Agencies should refer to the side letter on this subject, dated October 6, 1988, which is found in Appendix III of the Agreement.

Negotiating Units:

Security Services Unit Article 5.3 and 25.3
Security Supervisors Unit Article 5.3 and 25.3

Effect:

I. Administration of Employee Organization Leave

Responsibility for administration of employee organization leave for these units has been delegated by the Governor's Office of Employee Relations to the Director of Work Force Planning Services, Department of Civil Service, and by Council 82 to the Council's Executive Director.

Unless otherwise noted, the following procedures regarding the administration of employee organization leave apply to both the Security Services Unit and the Security Supervisors Unit.

II. General Considerations

Employee organization leave is leave with pay. Section 3 of Article 5 and Section 3 of Article 25 of the State-Security Services Unit Agreement and the State-Security Supervisors Unit Agreement provide for employee organization leave for employees in these units.

No overtime or compensatory time off may be approved for travel to or attendance at a meeting, or for investigating or processing a grievance. However, when an employee was relieved from a previously scheduled overtime assignment on his/her regular day off for the purpose of attending a disciplinary grievance review meeting which had been scheduled on that regular day off before the overtime assignment was accepted, an arbitrator awarded overtime. Therefore, consistent with administrative regulations regarding the assignment of overtime, the investigation or processing of a grievance should not be scheduled at a time which would conflict with an overtime work assignment on a day which is otherwise scheduled as the employee's regular day off. Employees who travel to or attend a meeting or who are investigating or processing a grievance on a regular day off, vacation, pass day, holiday or on sick leave shall not be granted any time off in lieu thereof.

Employee organization leave should be requested through and approved in advance by the employing agency. Such approval is, in all cases, subject to reasonable operating needs.

Approval of requests to reschedule shifts or pass days so that employees can attend internal union functions during their working hours need not be granted. However, in the case of negotiations and labor/management committee meetings, every effort should be made to arrange such rescheduling.

Unless otherwise indicated, the term "year" shall mean the contract year beginning on April 1 and ending on March 31.

It must be understood that employees may attend conventions, board meetings and policy committee meetings on their own time or by charging their time to personal accruals subject to management's ability to release them from duty. The limits specified herein apply solely to time charged to employee organization leave; i.e., release time without charge to personal accruals.

III. Union Executive Board--Security Services Unit and Security Supervisors Unit

Members of the Union Executive Board shall be granted employee organization leave for the purpose of attending Executive Board meetings.

A. Eligible State Employees

Members of the Executive Board, Security Services Unit, Council 82 and Security Supervisors Unit, Council 82 are eligible.

B. Amount of Leave

1. Security Services Unit--For any contract year, members of the Executive Board are provided a cumulative total of 224 days of employee organization leave for attendance at and travel to and from Board meetings.

2. Security Supervisors Unit--For any contract year, one member of the Executive Board is provided a cumulative total of 12 days of employee organization leave for attendance at and travel to and from Board meetings.

C. Approval and Recording of Employee Organization Leave

For purposes of approving and recording employee organization leave used for Board meetings, one day is equal to one full shift (duty tour); leave cannot be charged in units of less than one day. Any and all time absent from work as a result of attendance at Board meetings for which employee organization leave is authorized is charged to the "bank" of 224 days, or 12 days, as appropriate, or to the employee's leave accruals.

D. Procedure for Requesting Leave, Notification of Meetings and Authorization for Leave

1. Requests for employee organization leave to attend meetings of the Union Executive Board shall be made by the employee to his/her supervisor at least five (5) days in advance of the meetings, and shall specify the total amount of leave requested including actual and necessary travel time not to exceed eight (8) hours each way. Upon receipt of such requests, agencies will grant tentative approval of employee organization leave, subject to the need to maintain essential services.

2. The Executive Director will inform the Director of Work Force Planning Services of all meetings of the Executive Board at least five (5) days in advance and the Director of Work Force Planning Services shall notify the appropriate agencies. Such notice will include the member's name, agency, official work station (e.g., main office, district office or geographic location, institution, facility). Employee organization leave will not be approved unless the five-day advance notice is given.

3. Following each meeting, the Executive Director will forward to the Director of Work Force Planning Services the names of those members who attended the meeting.

4. The listing of those who were in attendance at each meeting will be forwarded to the agencies by the Director of Work Force Planning Services.

5. The Director of Work Force Planning Services will maintain a record of employee organization leave used for attendance at Board meetings and will not authorize any employee organization leave in excess of the limits specified in the agreements.

6. Employees who challenge the accuracy of authorizations and believe they are entitled to employee organization leave must refer such challenges through their local presidents or directly to the Executive Director. No additional employee organization leave may be approved by any agency except upon notice from the Director of Work Force Planning Services.

IV. Union Policy Committee Meetings--Security Services Unit and Security Supervisors Unit

Members of the Correction, Uniformed Supervisors, Safety, Conservation, Rangers, Campus Public Safety Officers, Parks and Recreation, OGS, Hospital Treatment Assistants, Security Services Assistants and Security Supervisors policy committees shall be granted employee organization leave for the purpose of attending such policy committee meetings.

A. Eligible State Employees

Members of the Policy Committees, Security Services Unit, Council 82, and Security Supervisors Unit, Council 82 are eligible. The committees and maximum number of employees eligible for employee organization leave for each such meeting are as follows: For members of the Security Services Unit -- Correction (56); Uniformed Supervisors (10); Safety (11); Conservation (12); Rangers (9); Campus Public Safety Officers (9); Parks and Recreation (9); OGS (3); Hospital Treatment Assistants (4); Security Service Assistants (3); and for members of the Security Supervisors Unit -- Correction (16); Rangers (3); and Campus Public Safety Supervisors (7).

B. Amount of Leave

1. Security Services Unit

For any contract year, members of the nine policy committees are provided a cumulative total of 504 days of employee organization leave for attendance at and travel to and from committee meetings. Such leave is available for the designated number of members of each committee for up to two meetings of no more than two days' duration each during each contract year for each of the nine committees.

2. Security Supervisors Unit

For any contract year, members of the three policy committees are provided a cumulative total of 104 days of employee organization leave for attendance at and travel to and from meetings of committee meetings. Such leave is available for the designated number of members of each committee for up to two meetings of no more than two days' duration each during each contract year for each of the three committees.

C. Approval and Recording of Employee Organization Leave

For purposes of approving and recording employee organization leave used for policy committee meetings, one day is equal to one full shift (duty tour) and leave cannot be charged in units of less than one day. All time absent from work as a result of attendance at policy committee meetings for which employee organization leave is authorized is charged to the "bank" of 504 days or 104 days, as appropriate, or to the employee's leave accruals.

D. Procedure for Requesting Leave, Notification of Meetings and Authorization for Leave

1. Requests for employee organization leave to attend meetings of the Union Policy Committees shall be made by the employees to their supervisors at least five (5) days in advance of the meeting, and shall specify the total amount of leave requested, including actual and necessary travel time not to exceed eight (8) hours each way. Upon receipt of these requests, agencies will grant tentative approval of employee organization leave, subject to the need to maintain essential services.

2. The Executive Director will inform the Director of Work Force Planning Services of all meetings of the Union Policy Committees at least five (5) days in advance and the Director of Work Force Planning Services will notify the appropriate agencies. Notice will include the member's name, agency, and official work station (e.g., main office, district office or geographic location, institution, facility). Employee organization leave will not be approved unless the five (5) day advance notice is given.

3. Following each meeting, the Executive Director will forward to the Director of Work Force Planning Services the names of those members who attended the meeting. Employee organization leave will not be approved unless the five-day advance notice is given.

4. The listing of those who were in attendance at each meeting will be forwarded to the agencies by the Director of Work Force Planning Services.

5. The Director of Work Force Planning Services will maintain a record of employee organization leave used for attendance at policy committee meetings and will not authorize any employee organization leave in excess of the limits specified in the agreements.

6. Employees who challenge the accuracy of authorizations and believe they are entitled to employee organization leave must refer such challenges through their local presidents or directly to the Executive Director. No additional employee organization leave may be approved by any agency except upon notice from the Director of Work Force Planning Services.

V. Statewide Negotiations

A. Eligible State Employees

The Governor's Office of Employee Relations will grant employee organization leave to a reasonable number of employees for the Union Negotiating Committee with the understanding that there shall be no more than one Union committee member from any one facility eligible to receive leave for this purpose, except that this restriction shall not apply to the Council President, Correction Officers Policy Committee Chairperson and the President of the Uniformed Supervisors Local.

B. Amount of Leave

Employee organization leave is subject to reasonable operating needs. Leave may be granted for time actually and reasonably spent for such negotiations, including travel time and time approved for preparation meetings. A day prior to the commencement of each negotiating session or series of sessions will normally be approved for preparation and travel. Because team members are released for the full day for a negotiating session, no additional travel time is normally provided following sessions. Special arrangements for

travel time made following late sessions will be communicated to agencies. When authorized, travel time shall mean actual and necessary time, not to exceed eight (8) hours each way.

C. Requests for Leave

Requests for leave shall be filed in advance in writing by the eligible employee with the official the agency designates. Every effort should be made to schedule Council 82 negotiating team members to the day shift, Monday through Friday, during negotiations. Agencies will grant tentative approval for the employee organization leave, including travel time.

D. Verification

1. List of Eligibles

Prior to the commencement of negotiations, Council 82 will submit to the Governor's Office of Employee Relations a list of all members of the Council 82 negotiating teams, including title, agency and official work station; the list shall be revised by Council 82 as necessary.

2. Record of Attendance

The Chief State Negotiator will forward authorization for employee organization leave to the affected agencies. A copy of such authorization will be forwarded to the Director of Work Force Planning Services for record keeping purposes.

VI. Investigating and Processing of Grievances, Article 7 and Article 8

An aggrieved employee, his/her representatives and necessary witnesses shall not suffer any loss of earnings, or be required to charge leave credits, as a result of processing or investigating a grievance during scheduled working hours. Reasonable and necessary time spent in processing and investigating grievances, including travel time, shall neither be charged to leave credits nor considered overtime worked. However, be advised that, in an instance when an employee was relieved from a previously scheduled overtime assignment on his/her regular day off for the purpose of attending a disciplinary grievance review meeting which had been scheduled on that regular day off before the overtime assignment was accepted, an arbitrator awarded overtime. Therefore, consistent with administrative regulations regarding the assignment of overtime, the investigation or processing of a grievance should not be scheduled at a time which would conflict with an overtime

work assignment on a day which is otherwise scheduled as the employee's regular day off. Travel time shall mean actual and necessary travel time, not to exceed eight (8) hours each way.

On the employee's prior written request at least 48 hours in advance, the employer will make every effort to reschedule shift assignments so that meetings fall during working hours of union representatives.

Employees should not leave their jobs to investigate or process grievances without first requesting and obtaining approval from their supervisors. Requests shall be approved providing the resulting absence will not interfere with the proper conduct of governmental functions. These requests are not subject to verification or final authorization by the Director of Work Force Planning Services.

Questions concerning absences from work to investigate or process grievances should be referred by agencies directly to the Governor's Office of Employee Relations.

VII. Joint Labor/Management Committees

A. Statewide Committees

1. Amount of Leave

Time spent in labor/management committee meetings pursuant to Article 25 is not charged against any "bank" of time but is subject to reasonable operating needs. Leave may be granted for time actually and reasonably spent in participating in mutually scheduled meetings of joint labor/management committees plus travel time. Travel time shall mean actual and necessary travel time, not to exceed eight (8) hours each way.

2. Requests for Leave

Requests for employee organization leave should be made by eligible employees in writing in advance to such official as the agency may designate. Agencies will grant tentative approval for employee organization leave, including travel time, subject to the need to maintain essential services.

3. Verification

a. List of Eligibles

Council 82 will submit to the Governor's Office of Employee Relations a list of all Council 82 members of such committees, including title, agency and official work station; such list shall be revised by Council 82 as necessary.

b. Authorizations

The agencies may approve use of employee organization leave on the basis of authorization by the Governor's Office of Employee Relations. A copy of such authorization will be forwarded to the Director of Work Force Planning Services for record keeping purposes.

c. Notification of Meetings and Record of Attendance

Immediately following each meeting, the State Chairperson will notify the Director of Work Force Planning Services of the date, starting and ending times, and record of attendance.

B. Departmental Committees

1. Amount of Leave

Employees may be released from duty without charge to leave credits for departmental committee meetings subject to reasonable operating needs. Time approved for such meetings shall be authorized only for employees of the department or agency for which the meeting is held except that the President and five regional Vice-Presidents of a statewide local can be granted time for departmental level labor/management committee meetings in agencies other than their own. The five (5) Regional Vice-Presidents will be authorized to attend agency level labor/management meetings only in the Office of Mental Health and the Office of Mental Retardation and Developmental Disabilities. Release from duty may be approved for travel time and for time actually and reasonably spent in participating in mutually scheduled meetings of joint labor/management committees which are established on a departmental basis. Travel time shall mean actual and necessary travel time not to exceed eight (8) hours each way.

2. Requests for Leave

Requests for employee organization leave should be made by eligible employees in writing in advance to such official as the agency may designate. Agencies will grant tentative approval for employee organization leave, including travel time, subject to the need to maintain essential services.

3. Authorization

The chairperson of each agency committee may approve the authorization of employee organization leave on the basis of the record of attendance.

4. Records

The chairperson of each agency committee will submit to the Director of Work Force Planning Services a record of the total amount of leave used for meetings of departmental committees after each meeting.

VIII. List of Employees Eligible for Employee Organization Leave

The Union shall supply to the Director of Work Force Planning Services 30 days after the execution of this Agreement and quarterly thereafter a list of Union officers, Executive Board members, members of policy committees and other employees eligible for employee organization leave together with the official work stations, departments and agencies of such employees.

State agencies having questions concerning the identity of Council 82 representatives or the authority of such persons to speak or act on contract administration or other matters should refer such questions to the Director of Work Force Planning Services. As required, the Executive Director of Council 82 will provide the Director of Work Force Planning Services with appropriate written certification of the authority and status of such representatives.

IX. Statement of Employee Organization Leave

The Director of Work Force Planning Services shall forward to the Executive Director at the end of each quarter a statement showing the total amount of employee organization leave used to date in the contract year for Union Executive Board meetings, conventions and policy committee meetings. The statement shall be considered an accurate accounting of leave used unless challenged by the Union within 30 days of receipt.